JAN 25 2016
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No. 15-338

In the Supreme Court of the United States

MARK J. SHERIFF, ET AL.,

Petitioners,

v.

PAMELA GILLIE, ET AL.,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

JOINT APPENDIX

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CERTIORARI GRANTED DECEMBER 11, 2015

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Doc. 17: Answer of Defendants Eric A. Jones and Law Office of Eric A. Jones, LLC, U.S. District Court, Southern District of Ohio, filed May 28, 2013 59

Doc. 24: Answer and Counterclaim of Intervening Defendant Ohio Attorney General Michael DeWine, U.S. District Court, Southern District of Ohio, filed August 21, 2013 77

Doc. 25: Answer of Defendants Wiles, Boyle, Burkholder & Bringardner Co., LPA, Mark Sheriff and Sarah Sheriff to Plaintiff's Complaint, U.S. District Court, Southern District of Ohio, filed August 22, 2013 108

Doc. 31: Plaintiffs' Answer to Counterclaim of Intervenor Ohio Attorney General Michael DeWine, U.S. District Court, Southern District of Ohio, filed September 10, 2013 112

Doc. 36-1: Joint Stipulation of Facts, *State of Ohio v. Nobile & Thompson Company, LPA*, Case No. 2:12-CV-1053, U.S. District Court, Southern District of Ohio, October 7, 2013 118

Doc. 47-1: Affidavit of Mark J. Sheriff, U.S. District Court, Southern District of Ohio, filed February 3, 2014 133

Doc. 48-1: Affidavit of Pamela Gillie, U.S. District Court, Southern District of Ohio, filed February 3, 2014 135

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Doc. 48-13: Transcript of Motion for A Temporary Restraining Order Hearing, *State of Ohio v. Nobile & Thompson Company, LPA*, Case No. 2:12-CV-1053, January 30, 2013, U.S. District Court, Southern District of Ohio, ... 326

Doc. 48-16: Advisory Opinion 75-016, August 19, 1975 375

Doc. 60-1: Affidavit of Sarah Sheriff, U.S. District Court, Southern District of Ohio, filed March 4, 2014 384

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RELEVANT DOCKET ENTRIES

Pamela Gillie, et al v.
Law Office of Eric A. Jones, et al,
U.S. Court of Appeals
for the Sixth Circuit
Case No. 14-3836

08/26/2014	2	Civil Case Docketed. Notice filed by Appellants Pamela Gillie and Hazel Meadows. Transcript needed: n. (BLH)
08/26/2014	3	The case manager for this case is: Beverly Harris (BLH)
08/26/2014	4	BRIEFING LETTER SENT setting briefing schedule: appellant brief due 10/08/2014; appellee brief due 11/10/2014. (BLH)
08/27/2014	5	APPEARANCE filed for Appellees Eric A. Jones and Law Office of Eric A. Jones, LLC by Boyd W. Gentry. Certificate of Service: 08/27/2014. (BWG)
08/27/2014	6	CORPORATE DISCLOSURE STATEMENT filed by Attorney Mr. Boyd William Gentry for Appellees Law Office of Eric A. Jones, LLC and Eric A. Jones Certificate of Service: 08/27/2014. (BWG)
08/27/2014	7	Mediation Office is involved in this appeal. (LMR)
08/27/2014	8	A Telephone Mediation conference

		has been scheduled for 09/18/2014 at 9:30 AM (ET) with Paul Calico. [Please open notice for important details and deadlines.] (LMR)
09/09/2014	9	Letter sent by Mediation Office regarding mediation: The Mediation conference scheduled for 9/18/2014 is hereby canceled. (LMR)
09/09/2014	10	Mediation Office is no longer involved in this appeal. (MLB)
09/09/2014	11	APPEARANCE filed for Appellee Ohio Attorney General by Sherry M. Phillips. Certificate of Service: 09/09/2014. (SMP)
09/09/2014	12	APPEARANCE filed for Appellants Pamela Gillie and Hazel Meadows by James E. Nobile. Certificate of Service: 09/09/2014. (JEN)
09/09/2014	13	CORPORATE DISCLOSURE STATEMENT filed by Attorney Mr. James E. Nobile for Appellant Hazel Meadows Certificate of Service: 09/09/2014. (JEN)
09/09/2014	14	CORPORATE DISCLOSURE STATEMENT filed by Attorney Mr. James E. Nobile for Appellant Hazel Meadows Certificate of Service: 09/09/2014. (JEN)
09/09/2014	15	APPEARANCE filed for Appellee Ohio Attorney General by Christopher P Conomy. Certificate

of Service: 09/05/2014. (CPC)

09/09/2014 16 APPEARANCE filed for Appellants Pamela Gillie and Hazel Meadows by Eric E. Willison. Certificate of Service: 09/09/2014. (EEW)

10/08/2014 17 APPELLANT BRIEF filed by Mr. James E. Nobile for Hazel Meadows. Certificate of Service:10/08/2014. Argument Request: requested. (lLOCKED; corrected brief filed 10/13/2014).--[Edited 12/03/2014 by BLH] (JEN)

10/09/2014 18 BRIEFING LETTER SENT requesting brief corrections from Mr. James E. Nobile for Hazel Meadows because addendum items should be combined into one addendum. Corrections due: 10/23/2014. (BLH)

10/13/2014 19 CORRECTED Plaintiffs-Appellants Pamela Gillie and Hazel Meadows' Brief Filed 10/8/2014 BRIEF filed by Mr. James E. Nobile for Hazel Meadows. Certificate of Service:10/13/2014. Argument Request: requested. (JEN)

11/10/2014 20 APPELLEE BRIEF filed by Ms. Sherry M. Phillips for Ohio Attorney General. Certificate of Service:11/10/2014. Argument Request: requested. (LOCKED; brief corrections requested see following

		letter).--[Edited 11/10/2014 by BLH] (SMP)
11/10/2014	21	BRIEFING LETTER SENT requesting brief corrections from Ms. Sherry M. Phillips for Ohio Attorney General because Designation of Relevant District Court Documents with Page ID# range not included.. Corrections due: 11/24/2014. (BLH)
11/10/2014	22	CORRECTED Brief of Appellee Ohio Attorney General BRIEF filed by Ms. Sherry M. Phillips for Ohio Attorney General. Certificate of Service:11/10/2014. Argument Request: requested. (SMP)
11/10/2014	23	APPEARANCE filed for Appellees Mark Jeffrey Sheriff, Sarah Sheriff and Wiles, Boyle, Burkholder, & Bringardner Co., LPA by Dale D. Cook. Certificate of Service: 11/10/2014. (DDC)
11/10/2014	24	CORPORATE DISCLOSURE STATEMENT filed by Attorney Mr. Dale D. Cook for Appellees Wiles, Boyle, Burkholder, & Bringardner Co., LPA, Mark Jeffrey Sheriff and Sarah Sheriff Certificate of Service: 11/10/2014. (DDC)
11/10/2014	25	APPELLEE BRIEF filed by Mr. Dale D. Cook for Wiles, Boyle, Burkholder, & Bringardner Co.,

		LPA, Mark Jeffrey Sheriff and Sarah Sheriff. Certificate of Service:11/10/2014. Argument Request: requested. (DDC)
11/11/2014	26	APPELLEE BRIEF filed by Mr. Boyd William Gentry for Law Office of Eric A. Jones, LLC and Eric A. Jones. Certificate of Service:11/10/2014. Argument Request: requested. (BWG)
11/12/2014	27	MOTION filed by Mr. Boyd William Gentry for Law Office of Eric A. Jones, LLC and Eric A. Jones to extend time to file brief. Certificate of Service: 11/12/2014. (BWG)
11/12/2014	28	RULING LETTER SENT granting motion to extend time to file brief [27] filed by Mr. Boyd William Gentry. (BLH)
11/12/2014	29	NOTIFICATION filed by Mr. Boyd William Gentry for Law Office of Eric A. Jones, LLC and Eric A. Jones regarding Oral Argument. Certificate of Service: 11/12/2014. (BWG)
11/24/2014	30	REPLY BRIEF filed by Attorney Mr. James E. Nobile for Appellant Hazel Meadows. Certificate of Service:11/24/2014. (LOCKED; counsel is directed to file one combined reply brief to the appellees' briefs within 7 days).--

[Edited 12/03/2014 by BLH] (JEN)

11/24/2014 31 REPLY BRIEF filed by Attorney Mr. James E. Nobile for Appellant Hazel Meadows. Certificate of Service:11/24/2014. (LOCKED; counsel is directed to file one combined reply brief to the appellees' briefs within 7 days).-- [Edited 12/03/2014 by BLH] (JEN)

11/24/2014 32 REPLY BRIEF filed by Attorney Mr. James E. Nobile for Appellant Hazel Meadows. Certificate of Service:11/24/2014. (LOCKED; counsel is directed to file one combined reply brief to the appellees' briefs within 7 days).-- [Edited 12/03/2014 by BLH] (JEN) (JEN)

12/03/2014 33 BRIEFING LETTER SENT requesting brief corrections from Mr. James E. Nobile for Hazel Meadows and Pamela Gillie. Counsel is driected to file one reply brief to the appellees' briefs, 15 pages OR 7000 words (proportional fonts) OR up to 650 lines (monospaced font).. Corrections due: 12/10/2014. (BLH)

12/03/2014 34 MOTION filed by Mr. James E. Nobile for Hazel Meadows to reconsider order dated 12/03/2014. Certificate of Service: 12/03/2014. (JEN)

12/09/2014	35	MOTION filed by Mr. James E. Nobile for Hazel Meadows to extend time to file brief. Certificate of Service: 12/09/2014. (JEN)
12/15/2014	36	ORDER: The motion to reconsider is GRANTED IN PART and DENIED IN PART, in that the plaintiffs are directed to file a single reply that does not exceed 21,000 words in length. In the interest of timely submission of this appeal to the court, the plaintiffs are directed to file that brief within 21 days of the entry of this order. Reply brief due 01/05/2015. [34], [35]. (BLH)
01/05/2015	37	CORRECTED Three separate reply briefs to Appellees' principal briefs BRIEF filed by Mr. James E. Nobile for Hazel Meadows. Certificate of Service:01/05/2015. Argument Request: requested. (LOCKED; wrong entry. Counsel is asked to redocket using the correct relief, reply brief filed).--[Edited 01/05/2015 by BLH] (JEN)
01/05/2015	38	REPLY BRIEF filed by Attorney Mr. James E. Nobile for Appellant Hazel Meadows. Certificate of Service:01/05/2015. (JEN)
01/07/2015	39	Oral argument date set for 9:00 a.m., Tuesday, March 3, 2015. Notice of argument sent to counsel on 01/07/2015. (MCP)

01/07/2015 40 Oral argument acknowledgment filed by Attorney Mr. Boyd William Gentry for Appellees Law Office of Eric A. Jones, LLC and Eric A. Jones. Certificate of Service: 01/07/2015. (BWG)

01/20/2015 41 Oral argument acknowledgment filed by Attorney Mr. James E. Nobile for Appellant Hazel Meadows. Certificate of Service: 01/20/2015. (JEN)

01/20/2015 42 APPEARANCE filed for Appellees Mark Jeffrey Sheriff, Sarah Sheriff and Wiles, Boyle, Burkholder, & Bringardner Co., LPA by Michael L. Close. Certificate of Service: 01/20/2015. (LOCKED, Mr. Michael L. Close was asked to redocket using his PACER account).--[Edited 01/20/2015 by BLH] (DDC)

01/20/2015 43 APPEARANCE filed for Appellees Mark Jeffrey Sheriff, Sarah Sheriff and Wiles, Boyle, Burkholder, & Bringardner Co., LPA by Michael L. Close. Certificate of Service: 01/20/2015. (LOCKED, attached document is an oral argument acknowledgment from Mr. Michael L. Close).--[Edited 01/20/2015 by BLH] (DDC)

01/20/2015 44 Oral argument acknowledgment filed by Attorney Mr. Dale D. Cook for Appellees Wiles, Boyle,

		Burkholder, & Bringardner Co., LPA, Mark Jeffrey Sheriff and Sarah Sheriff. Certificate of Service: 01/20/2015. (LOCKED, acknowledgment is from Mr. Michael L. Close. Mr. Close is asked to redocket using his PACER account).--[Edited 01/20/2015 by BLH] (DDC)
01/21/2015	45	APPEARANCE filed for Appellees Mark Jeffrey Sheriff, Sarah Sheriff and Wiles, Boyle, Burkholder, & Bringardner Co., LPA by Michael L. Close. Certificate of Service: 01/21/2015. (MLC)
01/21/2015	46	Oral argument acknowledgment filed by Attorney Mr. Michael L. Close for Appellees Wiles, Boyle, Burkholder, & Bringardner Co., LPA, Mark Jeffrey Sheriff and Sarah Sheriff. Certificate of Service: 01/21/2015. (MLC)
01/21/2015	47	Oral argument acknowledgment filed by Attorney Ms. Sherry M. Phillips for Appellee Ohio Attorney General. Certificate of Service: 01/21/2015. (SMP)
01/22/2015	48	MOTION filed by Ms. Sherry M. Phillips for Ohio Attorney General to continue oral argument. Certificate of Service: 01/22/2015. (SMP)

01/22/2015	49	RESPONSE in opposition filed regarding a motion to continue oral argument, [48]; previously filed by Ms. Sherry M. Phillips in 14-3836. Response from Attorney Mr. James E. Nobile for Appellant Hazel Meadows Certificate of Service:01/22/2015. (JEN)
01/23/2015	50	ORDER filed denying motion to continue oral argument [48] filed by Ms. Sherry M. Phillips. Entered by order of the court. (YH)
02/24/2015	51	Oral argument acknowledgment filed by Attorney Mr. Christopher Paul Conomy for Appellee Ohio Attorney General. Certificate of Service: 02/24/2015. (CPC)
02/24/2015	52	Oral argument acknowledgment filed by Attorney Mr. Christopher Paul Conomy for Appellee Ohio Attorney General. Certificate of Service: 02/24/2015. (LOCKED; duplicate).--[Edited 02/24/2015 by BLH] (CPC)
03/03/2015	53	CAUSE ARGUED by Mr. James E. Nobile for Appellant Hazel Meadows, et al, Mr. Michael L. Close for Appellees Wiles, Boyle, Burkholder, & Bringardner Co., LPA, et al, Mr. Christopher Paul Conomy for Appellee Ohio Attorney General and Mr. Boyd William Gentry for Appellees Law Office of

		Eric A. Jones, LLC and Eric A. Jones before Clay,Circuit Judge; Gilman,Circuit Judge and Sutton,Circuit Judge. (KSC)
05/08/2015	54	OPINION and JUDGMENT filed : The grant of summary judgment in favor of Defendants is VACATED, and the case is REMANDED for further proceedings consistent with the opinion of this court. Decision for publication. Eric L. Clay (AUTHORING), Ronald Lee Gilman, and Jeffrey S. Sutton (DISSENTING), Circuit Judges. (CL)
05/18/2015	55	APPEARANCE filed for Appellee Ohio Attorney General by Eric E. Murphy. Certificate of Service: 05/18/2015. (EEM)
05/18/2015	56	APPEARANCE filed for Appellee Ohio Attorney General by Peter Reed. Certificate of Service: 05/18/2015. (PTR)
05/18/2015	57	APPEARANCE filed for Appellee Ohio Attorney General by Michael J. Hendershot. Certificate of Service: 05/18/2015. (MJH)
05/18/2015	58	APPEARANCE filed for Appellee Ohio Attorney General by Samuel C. Peterson. Certificate of Service: 05/18/2015. (SCP)
05/21/2015	59	PETITION for en banc rehearing

filed by Mr. Eric E. Murphy for Ohio Attorney General, Mr. Dale D. Cook for Wiles, Boyle, Burkholder, & Bringardner Co., LPA, Mark Jeffrey Sheriff and Sarah Sheriff. Certificate of Service: 05/21/2015.-- [Edited 05/21/2015 by BLH] (EEM)

05/21/2015 60 PETITION for en banc rehearing filed by Mr. Boyd William Gentry for Law Office of Eric A. Jones, LLC and Eric A. Jones. Certificate of Service: 05/21/2015. (BWG)

06/01/2015 61 LETTER SENT to Mr. James E. Nobile for Hazel Meadows and Pamela Gillie, notifying that he is directed to respond to the petitions for en banc rehearing filed by Mr. Eric E. Murphy and Mr. Boyd William Gentry. Response due 06/15/2015. (BLH)

06/13/2015 62 RESPONSE to petition for en banc rehearing, [60], previously filed by filed by Mr. Boyd William Gentry in 14-3836 , petition for en banc rehearing, [59], previously filed by filed by Mr. Eric E. Murphy in 14-3836. Response filed by Mr. James E. Nobile for Hazel Meadows. Certificate of service: 06/13/2015. (JEN)

07/14/2015 63 ORDER filed denying petition for en banc rehearing [59] filed by Mr. Eric E. Murphy, denying petition for en

banc rehearing [60] filed by Mr. Boyd William Gentry. Eric L. Clay, Ronald Lee Gilman, and Jeffrey S. Sutton, Circuit Judges. Clay, Circuit Judge concurring in the denial of rehearing en banc; Sutton, Circuit Judge, dissenting from the denial of rehearing en banc joined by, Boggs, J., Batchelder, J., Cook, J., and McKeague, J.. (Cover letter uploaded).--[Edited 07/14/2015 by BLH] (BLH)

07/21/2015 65 MOTION filed by Mr. Eric E. Murphy for Ohio Attorney General, Mr. Dale D. Cook for Wiles, Boyle, Burkholder, & Bringardner Co., LPA, Mark Jeffrey Sheriff and Sarah Sheriff , and Mr. Boyd William Gentry for Law Office of Eric A. Jones, LLC and Eric A. Jones to stay mandate. Certificate of Service: 07/21/2015. (Additional parties added).--[Edited 07/21/2015 by BLH] (EEM)

07/22/2015 66 ORDER: Upon consideration of Appellees' motion to stay the mandate, it is ORDERED that the mandate be stayed to allow Appellees to file a petition for a writ of certiorari, and thereafter until the Supreme Court disposes of the case, but shall promptly issue if the petition is not filed within the time allowed by the Federal Rules of

Appellate Procedure [65]. Further, the appellees are required to file a status report within 90 days and every 30 days thereafter. First status report due 10/13/2015. Eric L. Clay, Ronald Lee Gilman, and Jeffrey S. Sutton, Circuit Judges. (BLH)

07/31/2015 67 MOTION filed by Mr. Eric Eastman Willison for Pamela Gillie and Hazel Meadows to reconsider order dated 07/22/2015. Certificate of Service: 07/31/2015. (EEW)

08/05/2015 68 ORDER filed denying motion to reconsider order filed on 07/22/2015 staying the mandate [67] filed by Mr. Eric Eastman Willison. Entered by order of the court. (BLH)

09/18/2015 69 STATUS REPORT filed by Mr. Eric E. Murphy for Ohio Attorney General. Certificate of Service: 09/18/2015. Next status report due 10/19/2015 (EEM)

09/22/2015 70 U.S. Supreme Court notice filed regarding a petition for a writ of certiorari filed by Appellee Mark J. Sheriff. Supreme Court Case No:15-338, 09/15/2015. (CL)

10/13/2015 71 STATUS REPORT filed by Mr. Eric E. Murphy for Ohio Attorney General. Certificate of Service: 10/13/2015. Next status report due

11/12/2015 (EEM)

11/12/2015	72	STATUS REPORT filed by Mr. Eric E. Murphy for Ohio Attorney General. Certificate of Service: 11/12/2015. Next status report due 12/14/2015 (EEM)
11/18/2015	73	U.S. Supreme Court notice filed regarding a petition for a writ of certiorari filed by Appellee Eric A. Jones. Supreme Court Case No:15-620, 10/07/2015. (CL)
12/14/2015	74	STATUS REPORT filed by Mr. Eric E. Murphy for Ohio Attorney General. Certificate of Service: 12/14/2015. Next status report due 01/13/2016 (EEM)
12/18/2015	75	U.S. Supreme Court letter filed granting the petition for a writ of certiorari [73] filed by Eric A. Jones.. Supreme Court Case No: 15-338, 12/11/2015.. (CL)

Gillie et al v. Law Office of Eric A. Jones, LLC et al,
U.S. District Court
Southern District of Ohio
Case No. 2:13-cv-00212-JLG-EPD

03/05/2013	1	COMPLAINT with JURY DEMAND against All Defendants (Filing fee $ 350 paid receipt number: 0648-4008173), filed by Pamela Gillie, Hazel Meadows. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Civil Cover Sheet) (Willison, Eric) (Entered: 03/05/2013)
03/08/2013	2	RELATED CASE MEMORANDUM ORDER: The Judges agree that this case and case number 2:12-cv-1053 are NOT related. Signed by Judge James L Graham and Judge Gregory L Frost on 3/8/2013. (pes1) (Entered: 03/08/2013)
04/05/2013	3	MOTION to Intervene *as Defendant and Counterclaimant* by Intervenor Defendant Ohio Attorney General. (Conomy, Christopher) (Entered: 04/05/2013)
04/05/2013	4	MOTION to Intervene *Memorandum in Support* by Intervenor Defendant Ohio Attorney General. (Conomy, Christopher) (Entered: 04/05/2013)
04/05/2013	5	***PROPOSED*** ANSWER to 1

		Complaint, COUNTERCLAIM *for declaratory judgment* against All Plaintiffs filed by Ohio Attorney General. (Conomy, Christopher) (Entered: 04/05/2013)
04/05/2013	6	MOTION to Stay by Counter Claimant Ohio Attorney General, Intervenor Defendant Ohio Attorney General. (Conomy, Christopher) (Entered: 04/05/2013)
04/05/2013	7	MOTION to Stay re 6 MOTION to Stay *Memorandum in Support* by Counter Claimant Ohio Attorney General, Intervenor Defendant Ohio Attorney General. (Attachments: # 1 Exhibit) (Conomy, Christopher) (Entered: 04/05/2013)
04/09/2013	8	NOTICE of Appearance by Boyd W Gentry for Defendants Eric A. Jones, Law Office of Eric A. Jones, LLC (Gentry, Boyd) (Entered: 04/09/2013)
04/19/2013	9	RESPONSE in Opposition re 4 MOTION to Intervene *Memorandum in Support*, 3 MOTION to Intervene *as Defendant and Counterclaimant* filed by Plaintiffs Pamela Gillie, Hazel Meadows. (Attachments: # 1 Exhibit A) (Willison, Eric) (Entered: 04/19/2013)

04/19/2013	10	RESPONSE to Motion re 6 MOTION to Stay , 7 MOTION to Stay re 6 MOTION to Stay *Memorandum in Support* filed by Plaintiffs Pamela Gillie, Hazel Meadows. (Willison, Eric) (Entered: 04/19/2013)
04/19/2013	11	MOTION to Strike *Ohio Attorney General's Answer and Counterclaim* by Plaintiffs Pamela Gillie, Hazel Meadows. Responses due by 4/26/2013 (Willison, Eric) (Entered: 04/19/2013)
04/23/2013	12	RESPONSE to Motion re 3 MOTION to Intervene *as Defendant and Counterclaimant* filed by Defendants Eric A. Jones, Law Office of Eric A. Jones, LLC. (Gentry, Boyd) (Entered: 04/23/2013)
05/03/2013	13	REPLY to Response to Motion re 4 MOTION to Intervene *Memorandum in Support*, 6 MOTION to Stay , 3 MOTION to Intervene *as Defendant and Counterclaimant*, 7 MOTION to Stay re 6 MOTION to Stay *Memorandum in Support* filed by Counter Claimant Ohio Attorney General, Intervenor Defendant Ohio Attorney General. (Attachments: # 1 Exhibit) (Conomy, Christopher) (Entered:

05/03/2013)

05/03/2013	14	RESPONSE to Motion re 11 MOTION to Strike *Ohio Attorney General's Answer and Counterclaim* filed by Counter Claimant Ohio Attorney General, Intervenor Defendant Ohio Attorney General. (Conomy, Christopher) (Entered: 05/03/2013)
05/09/2013	15	NOTICE of Appearance by Dale Daniel Cook for Defendants Mark Sheriff, Sarah Sheriff, Wiles, Boyle, Burkholder, & Bringardner Co., LPA (Cook, Dale) (Entered: 05/09/2013)
05/09/2013	16	MOTION Extension of Answer and Stay of All Proceedings by Defendants Mark Sheriff, Sarah Sheriff, Wiles, Boyle, Burkholder, & Bringardner Co., LPA. (Cook, Dale) (Entered: 05/09/2013)
05/28/2013	17	ANSWER to 1 Complaint, filed by Eric A. Jones, Law Office of Eric A. Jones, LLC. (Gentry, Boyd) (Entered: 05/28/2013)
06/27/2013	18	First MOTION Scheduling a Pre-trial Conference by Plaintiffs Pamela Gillie, Hazel Meadows. (Willison, Eric) (Entered: 06/27/2013)
06/28/2013	19	ORDER denying 11 Motion to Strike. Signed by Magistrate Judge

		Elizabeth Preston Deavers on 06/28/2013. (sr1) (Entered: 06/28/2013)
07/08/2013	20	NOTICE of Hearing: Preliminary Pretrial Conference set for 8/21/2013 11:00 AM in Chambers before Magistrate Judge Elizabeth Preston Deavers. (sln1) (Entered: 07/08/2013)
08/14/2013	21	RULE 26(f) REPORT by Plaintiff Pamela Gillie. (Zieg, Michael) (Entered: 08/14/2013)
08/20/2013	22	NOTICE OF CHANGE IN CONFERENCE DATE: Preliminary Pretrial Conference reset to 9/10/2013 11:00 AM in Chambers before Magistrate Judge Elizabeth Preston Deavers. (Previously set for 8/21/2013.) (sln1) (Entered: 08/20/2013)
08/21/2013	23	OPINION AND ORDER granting 3 the OAG's Motion to Intervene as a Defendant and Counterclaimant. Signed by Magistrate Judge Elizabeth Preston Deavers on 8/21/2013. (er) (Entered: 08/21/2013)
08/21/2013	24	ANSWER to 1 Complaint & COUNTERCLAIM against Pamela Gillie and Hazel Meadows filed by Ohio Attorney General. (er) (Entered: 08/21/2013)

08/22/2013	25	ANSWER to 1 Complaint, with Jury Demand filed by Mark Sheriff, Sarah Sheriff, Wiles, Boyle, Burkholder, & Bringardner Co., LPA. (Cook, Dale) (Entered: 08/22/2013)
08/29/2013	26	MOTION for Order to *Deem Motion to Stay Proceedings and Responsive Memoranda as Filed, Instanter* by Counter Claimant Ohio Attorney General. (Attachments: # 1 Exhibit A) (Phillips, Sherry) (Entered: 08/29/2013)
08/30/2013	27	ORDER granting OAG's 26 Motion to Deem Motion to Stay Proceedings and Responsive Memoranda as Filed Instanter. Signed by Magistrate Judge Elizabeth Preston Deavers on 8/30/2013. (er1) (Entered: 08/30/2013)
09/06/2013	28	ORDER denying motion to stay (doc. 6) and ordering additional briefing. Signed by Judge James L Graham on 9/6/13. (ds) (Entered: 09/06/2013)
09/09/2013	29	NOTICE of Appearance by Mark David Landes for Defendants Mark Sheriff, Sarah Sheriff, Wiles, Boyle, Burkholder, & Bringardner Co., LPA (Landes, Mark) (Entered: 09/09/2013)

09/09/2013	30	ORDER: The Preliminary Pretrial Conference set for 9/10/2013 is VACATED. Signed by Magistrate Judge Elizabeth Preston Deavers on 9/9/2013. (er1) (Entered: 09/09/2013)
09/10/2013	31	ANSWER to 24 Answer to Complaint, Counterclaim filed by All Plaintiffs. (Nobile, James) (Entered: 09/10/2013)
09/23/2013	32	ORDER finding as moot 16 Motion. Signed by Judge James L Graham on 9/23/13. (ds) (Entered: 09/23/2013)
10/07/2013	33	BRIEF re 28 Order on Motion to Stay, by Counter Claimant Ohio Attorney General. (Attachments: # 1 Exhibit A) (Phillips, Sherry) (Entered: 10/07/2013)
10/07/2013	34	BRIEF re 28 Order on Motion to Stay, by Defendants Mark Sheriff, Sarah Sheriff, Wiles, Boyle, Burkholder, & Bringardner Co., LPA. (Cook, Dale) (Entered: 10/07/2013)
10/07/2013	35	BRIEF by Plaintiffs Pamela Gillie, Hazel Meadows, Counter Defendants Pamela Gillie, Hazel Meadows. (Attachments: # 1 Exhibit Advisory Opinion, # 2 Exhibit Unreported Case Keefer) (Willison, Eric) (Entered:

10/07/2013)

10/07/2013	36	BRIEF by Defendants Eric A. Jones, Law Office of Eric A. Jones, LLC. (Attachments: # 1 Exhibit Stipulations) (Gentry, Boyd) (Entered: 10/07/2013)
10/21/2013	37	Reply re 28 Order on Motion to Stay, by Counter Claimant Ohio Attorney General, Intervenor Defendant Ohio Attorney General. (Conomy, Christopher) (Entered: 10/21/2013)
10/22/2013	38	Reply re 28 Order on Motion to Stay, *REPLY OF DEFENDANTS WEBB, MARK SHERIFF AND SARAH SHERIFF ON BIFURCATION* by Defendants Mark Sheriff, Sarah Sheriff, Wiles, Boyle, Burkholder, & Bringardner Co., LPA. (Cook, Dale) (Entered: 10/22/2013)
10/22/2013	39	BRIEF re 28 Order on Motion to Stay, by Plaintiffs Pamela Gillie, Hazel Meadows, Counter Defendants Pamela Gillie, Hazel Meadows. (Zieg, Michael) (Entered: 10/22/2013)
10/22/2013	40	Response *to Plaintiffs' Memorandum on Bifurcation* by Defendants Eric A. Jones, Law Office of Eric A. Jones, LLC. (Gentry, Boyd) (Entered:

10/22/2013)

12/03/2013	41	First MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Plaintiffs Pamela Gillie, Hazel Meadows. (Willison, Eric) (Entered: 12/03/2013)
12/04/2013	42	OPINION AND ORDER The Court ORDERS that this case be bifurcated. The parties shall submit dispositive motions within 60 days of this Order being entered. The Courts Order staying discovery will remain in place pending resolution of the liability issues in this case. Signed by Judge James L Graham on 12/4/2013. (ds) (Entered: 12/04/2013)
12/04/2013		Set/Reset Columbus PPTO Deadlines: Dispositive motions due w/in sixty (60) days per 42 (kk2) (Entered: 12/05/2013)
12/20/2013	43	RESPONSE in Opposition re 41 First MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Counter Claimant Ohio Attorney General. (Phillips, Sherry) Modified on 12/23/2013 to correct text (kk2) (Entered: 12/20/2013)
12/24/2013	44	RESPONSE in Opposition re 41 First MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM

		MEMORANDUM OF WBBB, MARK SHERIFF AND SARAH SHERIFF IN OPPOSITION TO MOTION TO DISMISS DECLARATORY JUDGMENT CLAIMS filed by Defendants Mark Sheriff, Sarah Sheriff, Wiles, Boyle, Burkholder, & Bringardner Co., LPA. (Cook, Dale) (Entered: 12/24/2013)
01/08/2014	45	REPLY to Response to Motion re 41 First MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM *Relating To Memorandum In Opposition Of Wiles, Boyle, Burkholder & Bringardner Co., LPA, Mark Sheriff And Sarah Sheriff* filed by Plaintiffs Pamela Gillie, Hazel Meadows, Counter Defendants Pamela Gillie, Hazel Meadows. (Nobile, James) (Entered: 01/08/2014)
02/03/2014	46	MOTION for Judgment on the Pleadings by Counter Claimant Ohio Attorney General, Intervenor Defendant Ohio Attorney General. Responses due by 2/27/2014 (Conomy, Christopher) (Entered: 02/03/2014)
02/03/2014	47	MOTION for Summary Judgment by Defendants Mark Sheriff, Sarah Sheriff, Wiles, Boyle, Burkholder, & Bringardner Co., LPA.

		Responses due by 2/27/2014 (Attachments: # 1 Exhibit 1 - Affidavit of Mark J. Sheriff, # 2 Exhibit 2 Clark v. Main Street) (Cook, Dale) (Entered: 02/03/2014)
02/03/2014	48	MOTION for Summary Judgment by Plaintiffs Pamela Gillie, Hazel Meadows, Counter Defendants Pamela Gillie, Hazel Meadows. Responses due by 2/27/2014 (Attachments: # 1 Exhibit A, # 2 Exhibit A1, # 3 Exhibit B, # 4 Exhibit B1, # 5 Exhibit C, # 6 Exhibit C1, # 7 Exhibit C2, # 8 Exhibit C3, # 9 Exhibit C4, # 10 Exhibit C5, # 11 Exhibit C6, # 12 Exhibit C7, # 13 Exhibit D, # 14 Exhibit E, # 15 Exhibit F, # 16 Exhibit G) (Zieg, Michael) (Entered: 02/03/2014)
02/03/2014	49	First MOTION for Summary Judgment by Plaintiff Hazel Meadows. Responses due by 2/27/2014 (Willison, Eric) (Entered: 02/03/2014)
02/03/2014	50	MOTION for Summary Judgment *On Issue Of Liability As To Law Firm Defendants* by Plaintiffs Pamela Gillie, Hazel Meadows, Counter Defendants Pamela Gillie, Hazel Meadows. Responses due by 2/27/2014 (Zieg, Michael) (Entered: 02/03/2014)

02/03/2014	51	MOTION for Summary Judgment by Defendants Eric A. Jones, Law Office of Eric A. Jones, LLC. Responses due by 2/27/2014 (Gentry, Boyd) (Entered: 02/03/2014)
02/21/2014	52	RESPONSE in Opposition re 46 MOTION for Judgment on the Pleadings filed by Plaintiffs Pamela Gillie, Hazel Meadows, Counter Defendants Pamela Gillie, Hazel Meadows. (Zieg, Michael) (Entered: 02/21/2014)
02/25/2014	53	Unopposed MOTION for Extension of Time to File Response/Reply as to 49 First MOTION for Summary Judgment New date requested 3/4/2014. *UNOPPOSED MOTION FOR EXTENSION OF TIME OF DEFENDANT SARAH SHERIFF* by Defendant Sarah Sheriff. (Cook, Dale) (Entered: 02/25/2014)
02/27/2014	54	RESPONSE in Opposition re 50 MOTION for Summary Judgment *On Issue Of Liability As To Law Firm Defendants*, 48 MOTION for Summary Judgment *COMBINED MEMORANDUM OF WILIES, BOYLE, BURKHOLDER & BRINGARDNER CO., LPA, MARK SHERIFF AND SARAH SHERIFF IN OPPOSITION TO PLAINTIFFS' MOTION FOR*

SUMMARY JUDGMENT ON SPECIAL COUNSEL [DOC. 48] AND LAW FIRM DEFENDANTS [DOC. 50] filed by Defendants Mark Sheriff, Sarah Sheriff, Wiles, Boyle, Burkholder, & Bringardner Co., LPA. (Cook, Dale) (Entered: 02/27/2014)

02/27/2014 55 RESPONSE in Opposition re 47 MOTION for Summary Judgment filed by Plaintiffs Pamela Gillie, Hazel Meadows. (Zieg, Michael) (Entered: 02/27/2014)

02/27/2014 56 RESPONSE in Opposition re 51 MOTION for Summary Judgment filed by Plaintiffs Pamela Gillie, Hazel Meadows. (Zieg, Michael) (Entered: 02/27/2014)

02/27/2014 57 RESPONSE in Opposition re 50 MOTION for Summary Judgment *On Issue Of Liability As To Law Firm Defendants* filed by Defendants Eric A. Jones, Law Office of Eric A. Jones, LLC. (Gentry, Boyd) (Entered: 02/27/2014)

02/27/2014 58 RESPONSE in Opposition re 48 MOTION for Summary Judgment filed by Defendant Eric A. Jones. (Gentry, Boyd) (Entered: 02/27/2014)

02/27/2014 59 RESPONSE in Opposition re 50

		MOTION for Summary Judgment *On Issue Of Liability As To Law Firm Defendants*, 48 MOTION for Summary Judgment filed by Counter Claimant Ohio Attorney General, Intervenor Defendant Ohio Attorney General. (Conomy, Christopher) (Entered: 02/27/2014)
03/04/2014	60	RESPONSE in Opposition re 49 First MOTION for Summary Judgment *MEMORANDUM OF SARAH SHERIFF IN OPPOSITION TO PLAINTIFF HAZEL MEADOWS' MOTION FOR SUMMARY JUDGMENT [DOC. #49]* filed by Defendant Sarah Sheriff. (Attachments: # 1 Exhibit 1 Affidavit of Sarah Sheriff, # 2 Exhibit 2 Affidavit of Mark Sheriff) (Cook, Dale) (Entered: 03/04/2014)
03/13/2014	61	REPLY to Response to Motion re 47 MOTION for Summary Judgment *REPLY MEMORANDUM OF MARK SHERIFF, SARAH SHERIFF AND WBBB IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT [DOC. #47]* filed by Defendants Mark Sheriff, Sarah Sheriff, Wiles, Boyle, Burkholder, & Bringardner Co., LPA. (Cook, Dale) (Entered: 03/13/2014)

03/13/2014	62	REPLY to Response to Motion re 51 MOTION for Summary Judgment filed by Defendants Eric A. Jones, Law Office of Eric A. Jones, LLC. (Gentry, Boyd) (Entered: 03/13/2014)
03/14/2014	63	REPLY to Response to Motion re 50 MOTION for Summary Judgment *On Issue Of Liability As To Law Firm Defendants*, 48 MOTION for Summary Judgment *Pertaining To Special Counsel* filed by Plaintiffs Pamela Gillie, Hazel Meadows, Counter Defendants Pamela Gillie, Hazel Meadows. (Zieg, Michael) (Entered: 03/14/2014)
03/16/2014	64	REPLY to Response to Motion re 48 MOTION for Summary Judgment *Pertaining To "Special Counsel"* filed by Plaintiffs Pamela Gillie, Hazel Meadows. (Zieg, Michael) (Entered: 03/16/2014)
03/16/2014	65	REPLY to Response to Motion re 50 MOTION for Summary Judgment *On Issue Of Liability As To Law Firm Defendants* filed by Plaintiffs Pamela Gillie, Hazel Meadows, Counter Defendants Pamela Gillie, Hazel Meadows. (Nobile, James) (Entered: 03/16/2014)
03/16/2014	66	REPLY to Response to Motion re

		50 MOTION for Summary Judgment *On Issue Of Liability As To Law Firm Defendants* filed by Plaintiffs Pamela Gillie, Hazel Meadows, Counter Defendants Pamela Gillie, Hazel Meadows. (Nobile, James) (Entered: 03/16/2014)
03/17/2014	67	REPLY to Response to Motion re 48 MOTION for Summary Judgment filed by Plaintiffs Pamela Gillie, Hazel Meadows. (Willison, Eric) (Entered: 03/17/2014)
03/21/2014	68	REPLY to Response to Motion re 48 MOTION for Summary Judgment filed by Plaintiff Hazel Meadows. (Willison, Eric) (Entered: 03/21/2014)
04/23/2014	69	ORDER. Signed by Judge James L Graham on 4/23/14. (ds) (Entered: 04/23/2014)
05/07/2014	70	MOTION for Summary Judgment by Counter Claimant Ohio Attorney General, Intervenor Defendant Ohio Attorney General. Responses due by 6/2/2014 (Conomy, Christopher) (Entered: 05/07/2014)
05/14/2014	71	RESPONSE in Opposition re 70 MOTION for Summary Judgment *of Intervenor OAG* filed by

		Plaintiffs Pamela Gillie, Hazel Meadows. (Willison, Eric) (Entered: 05/14/2014)
08/12/2014	72	OPINION AND ORDER granting 47 & 51 Motions for Summary Judgment; denying 46 Motion for Judgment on the Pleadings; denying 48 , 49 & 50 Motions for Summary Judgment; denying 70 Motion for Summary Judgment; finding as moot 41 Motion to Dismiss for Failure to State a Claim. Signed by Judge James L Graham on 8/12/2014. (er1) (Entered: 08/12/2014)
08/12/2014	73	JUDGMENT. Case Terminated. (ds) (Entered: 08/12/2014)
08/26/2014	74	NOTICE OF APPEAL as to 73 Judgment, 72 Order on Motion to Dismiss for Failure to State a Claim, Order on Motion for Judgment on the Pleadings, Order on Motion for Summary Judgment by Plaintiffs Pamela Gillie, Hazel Meadows, Counter Defendants Pamela Gillie, Hazel Meadows. Filing fee $ 505, receipt number 0648-4702104. Appeal Record due by 9/9/2014. (Nobile, James) (Entered: 08/26/2014)
08/26/2014		USCA Case Number 14-3836 for 74 Notice of Appeal, filed by Pamela Gillie, Hazel Meadows. Case

		Manager Beverly Harris. (sct1) (Entered: 08/27/2014)
12/15/2014	75	ORDER of USCA as to 74 Notice of Appeal, filed by Pamela Gillie, Hazel Meadows granting in part and denying in part the motion to reconsider. (sct1) (Entered: 12/16/2014)
05/11/2015	76	USCA JUDGMENT as to 74 Notice of Appeal: The Sixth Circuit ORDERS that summary judgment in favor of Defendants be VACATED, and the case be REMANDED to the District Court for further proceedings consistent with the opinion of this court. **Note: Mandate to issue.** (er) (Entered: 05/11/2015)
07/22/2015	77	ORDER of USCA as to 74 Notice of Appeal, filed by Pamela Gillie, Hazel Meadows to Stay the Mandate. **Note: No Mandate details noted.** (sct) (Entered: 07/23/2015)
09/23/2015	78	Notice from Supreme Court of the United States. The petition for a writ of certiorari was filed on 9/15/15 and placed on the docket on 9/17/15 as case number 15-338. (pb) (Entered: 09/23/2015)
11/19/2015	79	Notice from Supreme Court of the United States. The petition for a

		writ of certiorari was filed on 10/07/15 and placed on the docket on 11/13/15 as case number 15-620. (pb) (Entered: 11/19/2015)
12/21/2015	80	US SUPREME COURT ORDER of The Court today entered the following order in the above-entitled case: The petition for a writ of certiorari is granted as to 74 Notice of Appeal, filed by Pamela Gillie, Hazel Meadows **Note: No Mandate details noted.** (pb) (Entered: 12/21/2015)

Doc. 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Case No.: 2:13-CV-212
Judge:
Magistrate:
Class Action Complaint
Filed: March 5, 2013

Pamela Gillie
2392 Rosecrest Street
Columbus, Ohio 43123-8464

And

Hazel Meadows
587 South Harris Avenue
Columbus, Ohio 43204

On Behalf of Themselves and Others
Similarly Situated

Plaintiffs,

v.

Law Office of Eric A. Jones, LLC
c/o statutory agent for service of process
Eric A. Jones
2668 Welsford Road
Upper Arlington, Ohio 43221

And

Eric A. Jones
2668 Welsford Road
Upper Arlington, Ohio 43221

And

Wiles, Boyle, Burkholder & Bringardner Co., L.P.A.
c/o statutory agent for service of process
Kerry T. Boyle
300 Spruce Street Ste. 100
Columbus, Ohio 43215

And

Mark Sheriff
2330 Sandover Road
Upper Arlington, Ohio 43220

And

Sarah Sheriff
300 Spruce Street Ste. 100
Columbus, Ohio 43215

And

All Other "To-Be-Named" Defendants
Similarly Situated (see infra, ¶¶ 34-40, 112)

Defendants.

COMPLAINT FOR DAMAGES WITH CLASS ACTION RELIEF

Now come Plaintiffs Pamela Gillie and Hazel Meadows, by and through counsel, individually and on behalf of all others similarly situated, and based on their own knowledge, information, and belief, formed after inquiry reasonable under the circumstances, state:

INTRODUCTION

1. The Ohio Attorney General is the chief law officer for the State of Ohio.

2. Pursuant to R.C. 131.02, The Ohio Attorney General serves as legal counsel and the collector of past due debts owed to Ohio's various state agencies, boards, departments, commissions, colleges, universities, political subdivisions and retirement systems ("State Clients").

3. R.C. 109.08 gives The Ohio Attorney General the authority to engage "special counsel" to represent the state in connection with all claims of whatsoever nature which are certified to the Attorney General for collection under any law or which the Attorney General is authorized to collect.

4. This litigation concerns those collection claims that would be defined as "debts" within the meaning of 15 U.S.C. § 1692a(5).

5. "Special counsel" who are engaged by the Ohio Attorney General pursuant to R.C. 109.08 are required to sign a "Retention Agreement" with the Attorney General.

6. R.C. 109.08 states that the Ohio Attorney General shall provide "special counsel" with the official letterhead stationary of the Attorney General, but only in connection with the collection of certain specified tax claims.

7. The Ohio Attorney General requires "special counsel" to use the official letterhead stationary of the Ohio Attorney General in all dunning letters "special counsel" prepare and send to collect upon debts owed to State Clients, including non-tax debts.

8. Some or all of the debts collected on behalf of the Attorney General by the Defendants named in this action are consumer "debts" as defined by 15 U.S.C. § 1692a(5).

9. Defendants named in this action routinely use the official letterhead stationary of the Ohio Attorney General when collecting consumer debts.

10. Defendants' use of the Ohio Attorney General's letterhead when collecting consumer debts violates the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692, *et seq.*

JURISDICTION AND VENUE

11. This Court has jurisdiction under 28 U.S.C. § 1331 because this action arises under the federal laws of the United States.

12. Venue is appropriate because the acts and transactions occurred here and Plaintiffs Pamela Gillie and Hazel Meadows both reside here.

THE PARTIES

13. Plaintiff Pamela Gillie resides in Columbus, Ohio.

14. Plaintiff Hazel Meadows resides in Columbus, Ohio.

15. Plaintiff Gillie is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).

16. Plaintiff Meadows is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).

17. The putative Plaintiff class members are "consumers" as that term is defined by 15 U.S.C. § 1692a(3).

18. Plaintiffs Gillie and Meadows and the putative Plaintiff class members received, on and/or after March 5, 2012, at least one dunning letter from at least one of the Defendants, written on the official

letterhead stationary of the Ohio Attorney General, attempting to collect a consumer debt.

19. Defendants in this suit are comprised of individuals and entities engaged in the business of collecting consumer debts in the state of Ohio, and as such, are "debt collectors" as that term is defined by 15 U.S.C. § 1692a(6).

20. Defendants are further defined as follows:

a. Defendant Individuals – individual attorneys who are engaged by the Ohio Attorney General as "special counsel," have executed a Retention Agreement with the Attorney General, and are named in the Retention Agreement as "special counsel;"

b. Defendant Entities – Ohio entities, formed as corporations, LLCs, LLPs, general partnerships, or other business associations, to which "special counsel" belong as owners, partners, associates, of counsel, or otherwise; and

c. Defendant Others – individuals who provide services to Defendant Individuals and/or Defendant Entities and assist with collection efforts as attorneys, partners, paralegals, secretaries, assistants, or other designated associates.

21. Defendant Entities and Defendant Others are not "special counsel" as defined by the Retention Agreements signed between "special counsel" and the Ohio Attorney General.

22. Significant portions of the Defendants' business practices involve the collection of consumer debts

using the United States Mail and telephone service (via fax).

23. Each Defendant has a true business, company, or organization name that they use when conducting debt collection activities.

24. Defendant Individuals signed one-year "Retention Agreements" for fiscal year 2012 and/or fiscal year 2013 with the Ohio Attorney General, defining their relationship as "special counsel."

25. A true and accurate blank copy of the "Retention Agreement" for fiscal year 2012, signed by Defendant Individuals acting as "special counsel" from July 1, 2011 to June 30, 2012, is attached hereto as Exhibit A.

26. A true and accurate blank copy of the "Retention Agreement" for fiscal year 2013, signed by Defendant Individuals acting as "special counsel" from July 1, 2012 to June 30, 2013, is attached hereto as Exhibit B.

27. Said "Retention Agreements" explicitly define Defendant Individuals as "independent contractors" of the Ohio Attorney General.

28. Said "Retention Agreements" explicitly state that "special counsel" shall not be regarded as "in the employment of," or "as an employee of," the Attorney General or any State Client.

29. Defendant Individuals, in their role as "special counsel" pursuant to R.C. 109.08, are "independent contractors" of the Ohio Attorney General.

30. Defendant Individuals are neither officers nor employees of the State of Ohio for the purposes of 15 U.S.C. § 1692a(6)(C).

31. Defendant Entities and Defendant Others are neither officers nor employees of the State of Ohio for the purposes of 15 U.S.C. § 1692a(6)(C).

32. Defendants, when pursuing collection activities on behalf of the Ohio Attorney General, are "debt collectors" as defined by 15 U.S.C. § 1692a(6).

33. Defendants use their own true business, company, or organization name in the collection letters they send on the Ohio Attorney General letterhead, in addition to the name of the Ohio Attorney General.

34. Upon belief based on information received from the Ohio Attorney General, there are 96 other "special counsel" not yet named as defendants in this suit who signed Retention Agreements for fiscal year 2012 and/or fiscal year 2013.

35. Upon belief based on information received from the Ohio Attorney General, a significant number of the 96 other "special counsel" not yet named as defendants in this suit have used, and continue to use, the official letterhead stationary of the Ohio Attorney General to collect consumer "debts" as defined by 15 U.S.C. § 1692a(5).

36. At all times relevant to this case, the Ohio Attorney General has maintained a uniform policy requiring all "special counsel"[1] to use the Attorney General's official letterhead stationary when

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[1] One "Special Counsel," Robert Schuerger, requested and received permission, at some unknown time in the past, to use his own letterhead.

collecting both tax and non-tax debts certified to the Attorney General.

37. The dispute in this case arises from "Special counsel's" use of the official letterhead stationary of the Ohio Attorney General.

38. The Ohio Attorney General's uniform mandate requiring that "special counsel" use the official AG letterhead stationary, said use being the underlying cause of this dispute, has created an instance in which certain "special counsel" not yet named in this suit are juridically related in a manner that suggests including them into a single resolution of the dispute would be expeditious.

39. Plaintiffs intend, pursuant to proper rules for procedure and discovery, to determine which of the 96 other "special counsel" share sufficient juridical links with the Defendants currently named in this case, such that adding them as named defendants is appropriate and will promote judicial economy.

40. Accordingly, Plaintiffs intend, where appropriate given sufficient juridical links, to add such "to-be-named" defendants by amendment to this complaint.

FACTUAL ALLEGATIONS

41. On May 24, 2012, Defendants Eric A. Jones and Law Office of Eric A. Jones, LLC sent, through the U.S. Mail, a dunning letter to Plaintiff Gillie (hereinafter, "Gillie Letter").

42. A true and accurate copy of the Gillie Letter is attached hereto as Exhibit C.

43. Defendant Eric A. Jones sent the Gillie Letter in his role as "special counsel" to the Ohio Attorney General.

44. Plaintiff Gillie received this letter within a few days, and reviewed its contents.

45. The Gillie Letter was written on the official letterhead stationary of the Ohio Attorney General.

46. The Ohio Attorney General is a law enforcement officer of the State of Ohio.

47 The Ohio Attorney General has the power and discretion to implement criminal and civil proceedings against persons in Ohio.

48. The power of the Ohio Attorney General's Office to bring criminal and civil prosecutions is known to most persons in the State of Ohio.

49. Plaintiff Gillie, upon seeing the Ohio Attorney General's logo, was alarmed that this law enforcement office was contacting her about a debt she allegedly owed.

50. Upon further inspection, Plaintiff Gillie noticed that the envelope containing the letter had the return name and address of Law Office of Eric A. Jones, L.L.C.

51. "Law Office of Eric A. Jones, L.L.C." is the true name of Defendant Jones' business, company, or organization.

52. Upon further inspection, Plaintiff Gillie noticed that the letter was signed by Eric A. Jones, and requested that she send payment to Law Office of Eric A. Jones, LLC for a certain "medical claim."

53. The letter further instructed Plaintiff Gillie to "call Denise Hall at Eric A. Jones, L.L.C.... at my office to make arrangements to pay this debt."

54. Plaintiff Gillie was confused as to the actual source of the letter.

55. Plaintiff Gillie was misled as to the actual source of the letter.

56. Plaintiff Gillie was uncertain whether the letter was legitimate given the fact it had the multiple names of "Eric A. Jones", "Law Office of Eric A. Jones, L.L.C.", and "Mike DeWine Ohio Attorney General"

57. The signature block of the Gillie Letter identified the sender, Defendant Jones, as "outside counsel" to the Ohio Attorney General.

58. No explanation was given as to what "outside counsel" means.

59. The Gillie Letter further stated that Plaintiff Gillie owed $2,227.46 for a "medical claim."

60. Debts incurred from medical treatment are consumer "debts" as defined by 15 U.S.C. § 1692a(5).

61. On July 20, 2012, Defendants Sarah Sheriff and Wiles, Boyle Burkholder & Bringardner Co., LPA sent, through the U.S. Mail, a letter to Plaintiff Meadows. (hereinafter, "Meadows Letter").

62. Defendant Mark Sherriff caused the Meadows Letter to be sent in his role as "special counsel" to the Ohio Attorney General.

63. Plaintiff Meadows received this letter within a few days, and reviewed its contents.

64. The Meadows Letter was written on the official letterhead stationary of the Ohio Attorney General.

65. Upon information and belief, Plaintiff Meadows had received at least one prior dunning letter from Defendants Mark Sheriff, Sarah Sheriff and Wiles Boyle Burkholder & Bringardner Co., LPA written on the Ohio Attorney General's letterhead.

66. Plaintiff Meadows, upon seeing the Ohio Attorney General's logo in the Meadows Letter, was alarmed that she was being contacted by the Ohio Attorney General's office.

67 Upon further inspection, Plaintiff Meadows noticed that the envelope containing the letter had the return name and address of Wiles, Boyle, Burkholder & Bringardner Co., LPA.

68. "Wiles, Boyle, Burkholder & Bringardner Co., LPA" is the true name of Defendants Mark and Sarah Sherriff's business, company, or organization.

69. The letter stated that it was sent concerning a balance owed for a University of Akron loan that had been placed with the Ohio Attorney General.

70. The letter was signed by Sarah Sheriff, Wiles, Boyle, Burkholder & Bringardner Co., LPA, Special Counsel to the Attorney General for the State of Ohio.

71. Plaintiff Meadows was confused as to whether the actual source of the letter was The Ohio Attorney General or the Wiles firm.

72. Plaintiff Meadows was misled as to the actual source of the letter.

73. Plaintiff Meadows was uncertain about the letter's legitimacy given the fact it had the multiple names of "Sarah Sheriff," "Wiles, Boyle, Burkholder & Bringardner Co., LPA," and "Office of the Ohio Attorney General Collections Enforcement Section."

74. The signature block of the Meadows Letter identified the senders, Defendants Sarah Sheriff and Wiles, Boyle, Burkholder & Bringardner Co., LPA as "special counsel" to the Attorney General for the State of Ohio.

75. Plaintiff Meadows was confused whether Defendants Sarah Sheriff and/or Wiles, Boyle, Burkholder & Bringardner Co., LPA were actually a part of the Attorney General's Office.

76. No explanation was given as to what "special counsel" means.

77. Neither Sarah Sheriff nor Wiles, Boyle, Burkholder & Bringardner Co., LPA are "special counsel" to the Ohio Attorney General.

78. Sarah Sheriff was not and is not an attorney at law licensed with the State of Ohio.

79. The Meadows Letter further stated that Plaintiff Meadows owed $2,581.07 for a university loan.

80. Debts incurred from university education are consumer "debts" as defined by 15 U.S.C. § 1692a(5).

81. The use of the Ohio Attorney General's letterhead strongly implies to debtors receiving such letters, including but not limited to Plaintiffs Gillie and Meadows, that the letters are prepared by and sent from the Ohio Attorney General when such is not the case.

82. Said letters are prepared, compiled, and sent by the Defendant Individuals, Defendant Entities, and/or Defendant Others, from their own office.

83. The use of the Ohio Attorney General's letterhead strongly implies to debtors receiving such letters, including but not limited to Plaintiffs Gillie and Meadows, that the Ohio Attorney General and/or his office controls and supervises the process through which the individual letters are prepared and sent when such is not the case.

84. Defendant Individuals operate as independent contractors and supervise the process through which the letters are prepared and sent from their own office.

85. The Ohio Attorney General does not control and/or supervise the daily collection activities of Defendant Individuals, Defendant Entities, and Defendant Others, including Defendants' preparation and sending of individual collection letters.

86. The use of the Ohio Attorney General's letterhead strongly implies to debtors receiving such letters, including but not limited to Plaintiffs Gillie and Meadows, that the Ohio Attorney General and/or his office was and is substantially involved in Defendants' daily collection activities when such is not the case.

87. The Ohio Attorney General and/or his office is not substantially involved in Defendants' daily collection activities, which occur at Defendants' offices.

88. The actions of Defendants Eric A. Jones and Law Office of Eric A. Jones, LLC, in their preparation and sending of the Gillie Letter, violate

the FDCPA, specifically 15 U.S.C. 1692(e)(1), (9), (10) and (14).

89. Upon information and belief, on or after March 5, 2012, Defendants Eric A. Jones and Law Office of Eric A. Jones, LLC have sent multiple other letters, similar to the Gillie Letter, to putative Plaintiff class members, each in violation of the FDCPA, specifically 15 U.S.C. 1692(e)(1), (9), (10) and (14).

90. The actions of Defendants Mark Sheriff, Sarah Sheriff, and Wiles, Boyle, Burkholder & Bringardner Co., LPA, in their preparation and sending of the Meadows Letter, violate the FDCPA, specifically 15 U.S.C. 1692(e)(1), (9), (10) and (14).

91. Upon information and belief, on or after March 5, 2012, Defendants Mark Sheriff, Sarah Sheriff, and Wiles, Boyle, Burkholder & Bringardner Co., LPA have sent multiple other letters, similar to the Meadows Letter, to putative Plaintiff class members, each in violation of the FDCPA, specifically 15 U.S.C. 1692(e)(1), (9), (10) and (14).

CLASS ACTION ALLEGATIONS

92. This action is properly maintainable as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.

93. The putative Plaintiff class consists of the following persons: every consumer who received a dunning letter from one or more of the Defendants, on or after March 5, 2012, which was printed on the official letterhead stationary of the Ohio Attorney General and which was attempting to collect a consumer debt owed to Ohio's various state agencies, boards, departments, commissions, colleges,

universities, political subdivisions and retirement systems, and/or the state of Ohio.

94. Members of the class are so numerous that joinder is impractical.

95. As of December 31, 2012, the Ohio Attorney General had 791,150 non-tax collection accounts assigned to "special counsel," with a total balance of $13,189,745,245.37

96. Plaintiffs estimate that members of the putative class are in the tens of thousands, possibly hundreds of thousands.

97. Plaintiffs Gillie and Meadows will assure the adequate representation of all members of the class and have no conflict with class members in the maintenance of this action.

98. Plaintiffs Gillie's and Meadows' interests in this action are typical of the class, and the Gillie and Meadows Letters do not differ in any significant way from the letters received by other class Plaintiffs.

99. Plaintiffs Gillie's and Meadows' interests in this action are antagonistic to the interests of the Defendants.

100. Plaintiffs Gillie and Meadows have no interest in, or relationship with, any Defendant that would prevent them from litigating this matter fully and on behalf of the class.

101. Plaintiffs Gillie and Meadows are aware that settlement of the class action is subject to court approval.

102. Plaintiffs Gillie and Meadows will vigorously pursue the class claims throughout the course of this action.

103. A class action will provide a fair and efficient means to adjudicate this controversy since the claims of the class members are virtually identical, raising the same questions of law and involving substantially the same methods of collection by the Defendants.

104. Most if not all facts needed to determine damages are obtainable from the records of the Defendants and the Ohio Attorney General.

105. The purposes of the FDCPA will be best effectuated by a class action.

106. A class action is superior to other methods for the fair and efficient adjudication of this controversy.

107. Because the damages suffered by most members of the class are relatively small in relation to the costs, expense, and burden of this litigation, it would be difficult for members of the class to individually redress the wrongs done to them.

108. Many, if not all of the class members are unaware that claims exist against the Defendants.

109. Because many class members are unaware of their claims and because their claims are small in relation to the cost of an individual suit, a class action is the only proceeding in which class members can, as a practical matter, recover.

110. There will be no unusual difficulty in the management of this action as a class action.

111. Several common questions of law predominate over all matters in this action.

112. Among the common questions are: 1) Did the Defendants misrepresent themselves as being vouched for, bonded by, or affiliated with the Ohio Attorney General's Office via the use of the Ohio Attorney General's letterhead in the collection of consumer debts?; 2) Did the Defendants, through the use of the Ohio Attorney General's letterhead in their collection letters, distribute written communications which simulated or falsely represented that the documents were authorized, issued, or approved by an official of the State of Ohio, to wit, the Attorney General, or create a false impression as to its source, authorization or approval?; 3) Did the Defendants, through their use of the Ohio Attorney General's letterhead, make use of any false representation or deceptive means to collect any debt?; 4) Did the Defendants, through their use of the Ohio Attorney General's letterhead, use any business, company, or organization name other than the true name of their business, company, or organization?; 5) Is the use of the Ohio Attorney General's letterhead by the Defendants confusing and/or misleading to debtors receiving such letters?

113. The same common questions equally apply to similarly situated defendants not yet named in this suit, but juridically linked by being subject to the same mandate from the Ohio Attorney General to use the official letterhead stationary in their dunning letters.

114. Defendants had an obligation to Plaintiffs and the members of the class to comply with the

requirements of the FDCPA, and failed to do so in the following ways:

a. Using a "least sophisticated consumer standard", the Gillie and Meadows Letters, and similar letters sent by Defendants on the Ohio Attorney General's letterhead, created the false impression that they came directly from a law enforcement officer, to wit: the State of Ohio Attorney General, instead of coming directly from the Defendants.

b. Using a "least sophisticated consumer standard", the Gillie and Meadows Letters, and similar letters sent by Defendants on the Ohio Attorney General's letterhead, created confusion as to the source of the letters.

c. The sheer prominence of the typeset related to, and the use of the Ohio Attorney General's name and seal, as compared to the lesser typeset dedicated to the Defendants' information, gave the false impression that the Ohio Attorney General is the source of the letters.

d. The sheer prominence of the typeset related to, and the use of the Ohio Attorney General's name and seal, as compared to the lesser typeset dedicated to the Defendants' information, gave the false impression that Defendants are themselves attorneys employed by the State of Ohio for the purpose of collecting such debts.

e. Defendants' use, in their collection letters, of both their own true name and the Ohio Attorney General's name constituted the use

of a name other than the true name of Defendants' business, company, or organization.

First Claim for Relief: Violation of the FDCPA, 15 U.S.C. § 1692(e)(1)

115. Plaintiffs restate all of the foregoing allegations in this Complaint as if fully restated herein.

116. Defendants are "debt collectors" within the meaning of 15 U.S.C. § 1692a(6).

117. Plaintiffs are consumers within the meaning of 15 U.S.C. § 1692a(3).

118. The amount sought to be collected in the Gillie Letter by Defendants Eric Jones and The Law Offices of Eric A. Jones, LLC is a "debt" within the meaning of 15 U.S.C. § 1692a(5).

119. The amounts sought to be collected, in other similar dunning letters that were sent to putative Plaintiffs by Defendants Eric Jones and The Law Offices of Eric A. Jones, LLC, are "debts" within the meaning of 15 U.S.C. § 1692a(5).

120. The amount sought to be collected in the Meadows Letter by Defendants Mark Sheriff, Sarah Sheriff, and Wiles, Boyle, Burkholder & Bringardner Co., LPA is a "debt" within the meaning of 15 U.S.C. § 1692a(5).

121. The amounts sought to be collected, in other similar dunning letters that were sent to putative Plaintiffs by Defendants Mark Sheriff, Sarah Sheriff, and Wiles, Boyle, Burkholder & Bringardner Co., LPA, are "debts" within the meaning of 15 U.S.C. § 1692a(5).

122. Upon information and belief, the amounts sought to be collected, in letters similar to the Gillie and Meadows Letters sent by other similarly situated Defendants as described in the caption to this complaint, are "debts" within the meaning of 15 U.S.C. § 1692a(5).

123. Upon information and belief, Defendants have violated 15 U.S.C. § 1692(e)(1) by sending out dunning letters to the Plaintiffs and putative Plaintiff class members, which letters, via the use of the Ohio Attorney General's letterhead, falsely represent or imply that Defendants are vouched for, bonded by, or affiliated with the Ohio Attorney General.

124. Defendants' violations of 15 U.S.C. § 1692(e)(1) entitle Plaintiffs Gillie and Meadows, and the rest of the putative Plaintiff class, to the remedies set forth in 15 U.S.C. § 1692(k).

Second Claim For Relief: Violation of the FDCPA, 15 U.S.C. § 1692(e)(9)

125. Plaintiffs restate all of the foregoing allegations in this Complaint as if fully restated herein.

126. Upon information and belief, Defendants have violated 15 U.S.C. § 1692(e)(9) by sending out dunning letters to the Plaintiffs and putative Plaintiff class members, which letters, via the use of the Ohio Attorney General's letterhead, simulate or are falsely represented to be documents authorized, issued, or approved by the Ohio Attorney General, or which create a false impression that the Ohio Attorney General is the source of the letters, authorized the letters, or approved the letters.

127. Defendants' violations of 15 U.S.C. § 1692(e)(9) entitle Plaintiffs Gillie and Meadows, and the rest of the putative Plaintiff class, to the remedies set forth in 15 U.S.C. § 1692(k).

Third Claim for Relief: Violation of the FDCPA, 15 U.S.C. § 1692(e)(10)

128. Plaintiffs restate all of the foregoing allegations in this Complaint as if fully restated herein.

129. Upon information and belief, Defendants have violated 15 U.S.C. § 1692(e)(10) by sending out dunning letters to the Plaintiffs and putative Plaintiff class, which letters, via the use of the Ohio Attorney General's letterhead, contain a false representation or deceptive means to collect or attempt to collect a debt, in that they indicate, through the use of the letterhead, that the Ohio Attorney General is the primary party involved in the collection.

130. Defendants' violations of 15 U.S.C. § 1692(e)(10) entitle Plaintiffs Gillie and Meadows, and the rest of the putative Plaintiff class, to the remedies set forth in 15 U.S.C. § 1692(k).

Fourth Claim for Relief: Violation of the FDCPA, 15 U.S.C. § 1692(e)(14)

131. Plaintiffs restate all of the foregoing allegations in this Complaint as if fully restated herein.

132. Upon information and belief, Defendants have violated 15 U.S.C. § 1692(e)(14) by sending out dunning letters to the Plaintiffs and members of the putative Plaintiff class, which letters, via the use of

the Ohio Attorney General's letterhead, use a business, company, or organization name, to wit, the Ohio Attorney General, other than the true name of the Defendants' business, company, or organization.

133. Defendants' violations of 15 U.S.C. § 1692(e)(14) entitle Plaintiffs Gillie and Meadows, and the rest of the putative Plaintiff class, to the remedies set forth in 15 U.S.C. § 1692(k).

Fifth Claim for Relief: Violation of the FDCPA, 15 U.S.C. § 1692(e)(14)

134. Plaintiffs restate all of the foregoing allegations in this Complaint as if fully restated herein.

135. Upon information and belief, in the alternative and assuming arguendo, if "special counsel" are somehow deemed to be state officials, the use of the Defendants' entity names by said entities or Defendant Others, who are clearly not special counsel, together with the name of the Ohio Attorney General, violates 15 U.S.C. § 1692(e)(14), in that said Defendants are using a name other than the true name of their business, company, or organization.

136. Defendants' violations of 15 U.S.C. § 1692(e)(14) entitle Plaintiffs Gillie and Meadows, and the rest of the putative Plaintiff class, to the remedies set forth in 15 U.S.C. § 1692(k).

Wherefore, Plaintiffs Gillie and Meadows pray for the following relief:

A. Certification of the class under Rule 23 of the Federal Rules of Civil Procedure with the named Plaintiffs as class representatives;

B. A declaration that the Defendants have violated the Fair Debt Collection Practices Act through their use of the official letterhead stationary of the Ohio Attorney General in the collection of consumer debts;

C. A judgment entitling Plaintiffs Gillie and Meadows, and all putative Plaintiff class members, upon the claims for relief mentioned in this Complaint, an award in excess of $25,000 pursuant to the remedies set forth in 15 U.S.C. 1692(k);

D. An award to Plaintiffs Gillie and Meadows, and all putative Plaintiff class members, of all other remedies that equitably and reasonably flow from Defendants' breaches of federal and/or state law and the obligations that arise therefrom;

E. An award to Plaintiffs Gillie and Meadows, and all putative Plaintiff class members, their reasonable attorneys fees, costs, disbursements and pre-judgment interest; and

F. An award of such other and further relief that the Court deems just, equitable, and proper, including but not limited to the addition of "to-be-named" similarly situated defendants who are determined, through proper procedure and discovery, to be juridically linked to the current named Defendants, such that adding them is appropriate and will promote expediency and judicial economy.

JURY DEMAND

Plaintiffs Gillie and Meadows hereby demand a jury for all issues triable.

Dated this 5th day of March, 2013.

Respectfully submitted,

/s/Eric E. Willison
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Michael B. Zieg (#0066386)
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Doc. 17

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

CASE NO. 2:13-CV-212
JUDGE JAMES L. GRAHAM
MAGISTRATE JUDGE ELIZABETH PRESTON DEAVERS
Filed: May 28, 2013

PAMELA GILLIE, et al.,

Plaintiffs,

v.

LAW OFFICE OF ERIC A. JONES, LLC, et al.,

Defendants.

ANSWER OF DEFENDANTS ERIC A. JONES AND LAW OFFICE OF ERIC A. JONES, LLC

Now come Defendants Eric A. Jones and Law Office of Eric A. Jones, LLC (nka Jones Law Group, LLC), by counsel, and provide the following for their Answer to the Complaint:

1. Defendants admit the allegations in paragraph 1 of the Complaint.

2. Defendants admit the allegations in paragraph 2 of the Complaint.

3. Defendants admit the allegations in paragraph 3 of the Complaint.

4.Paragraph 4 of the Complaint is a characterization by Plaintiff about the nature of her Complaint and, as such, does not require an admission or denial.

5.Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 5 of the Complaint, and therefore deny such allegations.

6.Defendants admit to the contents of Ohio Revised Code § 109.08. All other allegations in paragraph 6 of the Complaint are denied.

7.Defendants do not know Plaintiffs' definition of "dunning letter" in paragraph 7 of the Complaint. However, Defendants admit that the Ohio Attorney General requires special or outside counsel appointed to collect debts owed to the State of Ohio to use the official letterhead stationary of the Ohio Attorney General.

8.Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 8 of the Complaint, and therefore deny such allegations.

9.Defendant Eric A. Jones admits using the Ohio Attorney General's letterhead stationary in compliance with applicable law when acting as "special counsel" or outside counsel under the Ohio Revised Code. All other allegations in paragraph 9 of the Complaint are denied.

10. Defendants deny the allegations in paragraph 10 of the Complaint.

11. In response to paragraph 11 of the Complaint, Defendants admit that this Court has subject matter

jurisdiction over this case and denies all other allegations.

12. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 12 of the Complaint, and therefore deny such allegations.

13. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 13 of the Complaint, and therefore deny such allegations.

14. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 14 of the Complaint, and therefore deny such allegations.

15. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 15 of the Complaint, and therefore deny such allegations.

16. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 16 of the Complaint, and therefore deny such allegations.

17 Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 17 of the Complaint, and therefore deny such allegations.

18. Defendants do not know Plaintiffs' definition of "dunning letter", and since that term is not defined in federal law Defendants deny the allegations in paragraph 18 of the Complaint.

19. In response to paragraph 19 of the Complaint, Defendants admit that under certain circumstances,

they may fall under the definition of debt collector as defined in 15 U.S.C. 1692a. Defendants are without sufficient information to form a belief as to the truth of the remaining allegations in paragraph 19 of the Complaint, and therefore deny such allegations.

20. Defendants acknowledge Plaintiffs' definitions contained in paragraph 20 of the Complaint and deny the remaining allegations.

21. Defendants deny the allegations in paragraph 21 of the Complaint.

22. In response to paragraph 22 of the Complaint, Defendants admit that, under certain circumstances, they may collect consumer debts and use the United States Mail and telephone service. Defendants are without sufficient information to form a belief as to the truth of the remaining allegations in paragraph 22 of the Complaint, and therefore deny such allegations.

23. Defendants admit that they have a business, company, or organization name that they use when conducting debt collection activities. Defendants are without sufficient information to form a belief as to the truth of the remaining allegations in paragraph 23 of the Complaint, and therefore deny such allegations.

24. In response to paragraph 24 of the Complaint, Defendants admit that Eric A. Jones appointed as special counselor outside counsel to the Ohio Attorney General pursuant to the Ohio Attorney General's statutory authority and that he entered into a contract with the Ohio Attorney General further defining their duties and relationship. Defendants are without sufficient information to

form a belief as to the truth of the remaining allegations in paragraph 24 of the Complaint, and therefore deny such allegations.

25. Defendants are without sufficient information to form a belief as to the truth of the allegations in paragraph 25 of the Complaint, and therefore deny such allegations.

26. Defendants are without sufficient information to form a belief as to the truth of the allegations in paragraph 26 of the Complaint, and therefore deny such allegations.

27. In response to paragraph 27 of the Complaint, Defendants admit that the Exhibits to the Complaint speak for themselves and deny any inconsistent allegations.

28. In response to paragraph 28 of the Complaint, Defendants admit that the Exhibits to the Complaint speak for themselves and deny any inconsistent allegations.

29. Paragraph 29 of the Complaint is a legal conclusion and, as such, does not require an admission or denial. Nonetheless, in response to paragraph 29 of the Complaint, Defendants admit that the exhibits to the Complaint speak for themselves and deny any inconsistent allegation. Further, Defendants state that special or outside counsel's authority to act for the State of Ohio is defined by statute and is not dependent on status as an employee or independent contractor.

30. Defendants deny the allegations in paragraph 30 of the Complaint.

31. Paragraph 31 of the Complaint is a legal conclusion and, as such, does not require an admission or denial.

32. Defendants deny the allegations contained in paragraph 32 of the Complaint.

33. In response to paragraph 33, Defendants admit that Eric A. Jones identifies himself as special counselor outside counsel to the Ohio Attorney General. Eric A. Jones also admits that he uses the Ohio Attorney General's letterhead in circumstances approved by the Ohio Attorney General. Defendants deny any remaining inconsistent allegations.

34. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 34 of the Complaint, and therefore deny such allegations.

35. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 35 of the Complaint, and therefore deny such allegations.

36. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 36 of the Complaint, and therefore deny such allegations.

37. Paragraph 37 of the Complaint is a characterization of the nature of Plaintiffs' claim and, as such, does not require an admission or denial.

38. Defendants deny the allegations in paragraph 38 of the Complaint.

39. Defendants deny the allegations in paragraph 39 of the Complaint.

40. Defendants deny the allegations in paragraph 40 of the Complaint.

41. Defendants do not know Plaintiffs' definition of "dunning letter" in paragraph 41 of the Complaint. However, Defendants admit that the letter attached as Exhibit C to Plaintiffs' Complaint was sent to Plaintiff Gillie.

42. Defendants admit the allegations in paragraph 42 of the Complaint.

43. Defendants admit the allegations in paragraph 43 of the Complaint.

44. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 44 of the Complaint, and therefore deny such allegations.

45. In response to paragraph 45 of the Complaint, Defendants admit that the Exhibits to the Complaint speak for themselves and deny any inconsistent allegations.

46. Defendants admit the allegations in paragraph 46 of the Complaint.

47. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 47 of the Complaint, and therefore deny such allegations.

48. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 48 of the Complaint, and therefore deny such allegations.

49. Defendants are without sufficient information to enable them to admit or deny the allegations in

paragraph 49 of the Complaint, and therefore deny such allegations.

50. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 50 of the Complaint, and therefore deny such allegations.

51. Defendants denies the allegations in paragraph 51 of the Complaint as the Law Office of Eric A. Jones, LLC amended its name in August of 2012.

52. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 52 of the Complaint, and therefore deny such allegations.

53. In response to paragraph 53 of the Complaint, Defendants admit that the Exhibits to the Complaint speak for themselves and deny any inconsistent allegations.

54. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 54 of the Complaint, and therefore deny such allegations.

55. Defendants deny the allegations in paragraph 55 of the Complaint.

56. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 56 of the Complaint, and therefore deny such allegations.

57. In response to paragraph 57 of the Complaint, Defendants admit that the Exhibits to the Complaint speak for themselves and deny any inconsistent allegations.

58. In response to paragraph 58 of the Complaint, Defendants admit that the Exhibits to the Complaint speak for themselves and deny any inconsistent allegations.

59. In response to paragraph 59 of the Complaint, Defendants admit that the Exhibits to the Complaint speak for themselves and deny any inconsistent allegations.

60. Defendants deny the allegations in paragraph 60 of the Complaint.

61. Defendants are without sufficient information to form a belief as to the truth of the allegations in paragraph 61 of the Complaint, and therefore deny such allegations.

62. Defendants are without sufficient information to form a belief as to the truth of the allegations in paragraph 62 of the Complaint, and therefore deny such allegations.

63. Defendants are without sufficient information to form a belief as to the truth of the allegations in paragraph 63 of the Complaint, and therefore deny such allegations.

64. In response to paragraph 64 of the Complaint, Defendants admit that the Exhibits to the Complaint speak for themselves and deny any inconsistent allegations.

65. Defendants are without sufficient information to form a belief as to the truth of the allegations in paragraph 65 of the Complaint, and therefore deny such allegations.

66. Defendants are without sufficient information to form a belief as to the truth of the allegations in

paragraph 66 of the Complaint, and therefore deny such allegations.

67. Defendants are without sufficient information to form a belief as to the truth of the allegations in paragraph 67 of the Complaint, and therefore deny such allegations.

68. Defendants are without sufficient information to form a belief as to the truth of the allegations in paragraph 68 of the Complaint, and therefore deny such allegations.

69. In response to paragraph 69 of the Complaint, Defendants admit that the Exhibits to the Complaint speak for themselves and deny any inconsistent allegations.

70. In response to paragraph 70 of the Complaint, Defendants admit that the Exhibits to the Complaint speak for themselves and deny any inconsistent allegations.

71. Defendants are without sufficient information to form a belief as to the truth of the allegations in paragraph 71 of the Complaint, and therefore deny such allegations.

72. Defendants are without sufficient information to form a belief as to the truth of the allegations in paragraph 72 of the Complaint, and therefore deny such allegations.

73. Defendants are without sufficient information to form a belief as to the truth of the allegations in paragraph 73 of the Complaint, and therefore deny such allegations.

74. In response to paragraph 74 of the Complaint, Defendants admit that the Exhibits to the Complaint

speak for themselves and deny any inconsistent allegations.

75. Defendants are without sufficient information to form a belief as to the truth of the allegations in paragraph 75 of the Complaint, and therefore deny such allegations.

76. In response to paragraph 76 of the Complaint, Defendants admit that the Exhibits to the Complaint speak for themselves and deny any inconsistent allegations.

77 Defendants are without sufficient information to form a belief as to the truth of the allegations in paragraph 77 of the Complaint, and therefore deny such allegations.

78. Defendants are without sufficient information to form a belief as to the truth of the allegations in paragraph 78 of the Complaint, and therefore deny such allegations.

79. In response to paragraph 79 of the Complaint, Defendants admit that the Exhibits to the Complaint speak for themselves and deny any inconsistent allegations.

80. Defendants deny the allegations in paragraph 80 of the Complaint.

81. Defendants deny the allegations in paragraph 81 of the Complaint.

82. Defendants admit that letters prepared for Eric A. Jones as "outside counsel" or "special counsel" are sent from their office on behalf of Eric A. Jones. Defendants are without sufficient information to form a belief as to the truth of the remaining

allegations in paragraph 82 of the Complaint, and therefore deny such allegations.

83. Defendants deny the allegations in paragraph 83 of the Complaint.

84. Paragraph 84 of the Complaint is a legal conclusion and, as such, does not require an admission or denial. Nonetheless, Defendants admit that they are involved in the supervision of the process through which letters are prepared and sent from their office. Defendants further state that Eric A. Jones's authority to act for the State of Ohio is defined by statute and is not dependent on his status as an employee or independent contractor.

85. Defendants deny the allegations in paragraph 85 of the Complaint.

86. Defendants deny the allegations in paragraph 86 of the Complaint.

87. Defendants deny the allegations in paragraph 87 of the Complaint.

88. Defendants deny the allegations in paragraph 88 of the Complaint.

89. Defendants deny the allegations in paragraph 89 of the Complaint.

90. Defendants deny the allegations in paragraph 90 of the Complaint.

91. Defendants deny the allegations in paragraph 91 of the Complaint.

92. Defendants deny the allegations in paragraph 92 of the Complaint.

93. Defendants deny the allegations in paragraph 93 of the Complaint.

94. Defendants deny the allegations in paragraph 94 of the Complaint.

95. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 95 of the Complaint, and therefore deny such allegations.

96. Defendants deny the allegations in paragraph 96 of the Complaint.

97. Defendants deny the allegations in paragraph 97 of the Complaint.

98. Defendants deny the allegations in paragraph 9S of the Complaint.

99. Defendants deny the allegations in paragraph 99 of the Complaint.

100. Defendants deny the allegations in paragraph 100 of the Complaint.

101. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 101 of the Complaint, and therefore deny such allegations.

102. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 102 of the Complaint, and therefore deny such allegations.

103. Defendants deny the allegations in paragraph 103 of the Complaint.

104. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 104 of the Complaint, and therefore deny such allegations.

105. Defendants deny the allegations in paragraph 105 of the Complaint.

106. Defendants deny the allegations in paragraph 106 of the Complaint.

107. Defendants deny the allegations in paragraph 107 of the Complaint.

108. Defendants deny the allegations in paragraph 108 of the Complaint.

109. Defendants deny the allegations in paragraph 109 of the Complaint.

110. Defendants deny the allegations in paragraph 110 of the Complaint.

111. Defendants deny the allegations in paragraph 111 of the Complaint.

112. Defendants deny the allegations in paragraph 112 of the Complaint.

113. Defendants deny the allegations in paragraph 113 of the Complaint.

114. Defendants deny the allegations in paragraph 114 of the Complaint and its subsections.

115. Defendants incorporate their responses to paragraphs 1-114 of the Complaint as if fully set forth herein.

116. In response to paragraph 116, Defendants admit that, under certain circumstances, they may fall under the definition of debt collector as defined in 15 U.S.C. 1692a and deny all other allegations. Defendants are without sufficient information to form a belief as to the truth of the remaining allegations in paragraph 116 of the Complaint, and therefore deny such allegations.

117. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 117 of the Complaint, and therefore deny such allegations.

118. Defendants deny the allegations in paragraph 118 of the Complaint.

119. Defendants do not know Plaintiffs' definition of "dunning letter", and since that term is not defined in federal law Defendants deny the allegations in paragraph 119 of the Complaint.

120. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 120 of the Complaint, and therefore deny such allegations.

121. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 121 of the Complaint, and therefore deny such allegations.

122. Defendants are without sufficient information to enable them to admit or deny the allegations in paragraph 122 of the Complaint, and therefore deny such allegations.

123. Defendants deny the allegations in paragraph 123 of the Complaint.

124. Defendants deny the allegations in paragraph 124 of the Complaint.

125. Defendants incorporate their responses to paragraphs 1-124 of the Complaint as if fully set forth herein.

126. Defendants deny the allegations in paragraph 126 of the Complaint.

127. Defendants deny the allegations in paragraph 127 of the Complaint.

128. Defendants incorporate their responses to paragraphs 1-127 of the Complaint as if fully set forth herein.

129. Defendants deny the allegations in paragraph 129 of the Complaint.

130. Defendants deny the allegations in paragraph 130 of the Complaint.

131. Defendants incorporate their responses to paragraphs 1-130 of the Complaint as if fully set forth herein.

132. Defendants deny the allegations in paragraph 132 of the Complaint.

133. Defendants deny the allegations in paragraph 133 of the Complaint.

134. Defendants incorporate their responses to paragraphs 1-133 of the Complaint as if fully set forth herein.

135. Defendants deny the allegations in paragraph 135 of the Complaint.

136. Defendants deny the allegations in paragraph 136 of the Complaint.

137. Defendants deny all allegations in the Complaint not otherwise specifically admitted or denied herein.

ADDITIONAL DEFENSES

1.Any violation of law, which is denied, was the result of a bona fide error notwithstanding the

maintenance of procedures reasonable adopted and/or adapted to avoid such error.

2. Plaintiffs' claims are barred by the Eleventh Amendment, absolute immunity, and/or qualified immunity.

3. Plaintiff Pamela Gillie lacks standing and/or is not the proper party to bring this case because her claims appear to have been (or should have been) part of her bankruptcy estate in Case No. 2:12-bk-50333.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that the foregoing document was served on the following counsel via the Clerk of Court's CM/ECF system on May 28, 2013.

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/s/Boyd W. Gentry
Boyd W Gentry (0071057)

Doc. 24

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**CASE NO.: 2:13-cv-00212
JUDGE JAMES L. GRAHAM
MAGISTRATE JUDGE ELIZABETH PRESTON DEAVERS
Filed: August 21, 2013**

PAMELA GILLIE, et al.,

Plaintiffs,

v.

LAW OFFICE OF ERIC A. JONES, LLC, et al.,

Defendants.

ANSWER AND COUNTERCLAIM OF INTERVENING DEFENDANT OHIO ATTORNEY GENERAL MICHAEL DEWINE

For his Answer to Plaintiffs' Complaint and Counterclaim m this matter, Intervening Defendant Ohio Attorney General Michael DeWine (the "Attorney General") states as follows:

ANSWER OF INTERVENING DEFENDANT OHIO ATTORNEY GENERAL

1. The Attorney General admits the allegations of ¶ 1 of the Complaint.

2. In response to the allegations of ¶ 2 of the Complaint, the Attorney General admits that his

duties are as prescribed by law and denies the remaining allegations.

3. In response to the allegations of ¶ 3 of the Complaint, the Attorney General admits that his authority is defined by law including numerous sections of the Ohio Revised Code regarding the appointment of individual attorneys to act as Special Counsel, and denies the remaining allegations.

4. The Attorney General admits that Plaintiffs seek certain relief as prayed for in the Complaint and denies the remaining allegations of ¶ 4 of the Complaint.

5. In response to the allegations of ¶ 5 of the Complaint, the Attorney General admits that attorneys appointed as Special Counsel generally sign contracts further defining their duties and relationship with the Attorney General, and denies the remaining allegations.

6. In response to the allegations of ¶ 6 of the Complaint, the Attorney General admits that his duties and authority are as prescribed by law and denies the remaining allegations.

7. In response to the allegations of ¶ 7 of the Complaint, the Attorney General admits that attorneys appointed as Special Counsel to collect debts owed to the State of Ohio are generally required to use official Attorney General letterhead in correspondence with debtors, and denies the remaining allegations.

8. The Attorney General denies the allegations of ¶ 8 of the Complaint.

9. In response to the allegations of ¶ 9 of the Complaint, the Attorney General admits that attorneys appointed as Special Counsel to collect debts owed to the State of Ohio are generally required to use official Attorney General letterhead in correspondence with debtors, and denies the remaining allegations.

10. The Attorney General denies the allegations of ¶ 10 of the Complaint.

11. Paragraph 11 of the Complaint states a legal conclusion to which no response is required. Notwithstanding the foregoing, the Attorney General admits that this action involves federal laws of the United States. The Attorney General denies the remaining allegations of ¶ 11 of the Complaint.

12. Paragraph 12 of the Complaint states a legal conclusion to which no response is required. Notwithstanding the foregoing, the Attorney General denies the remaining allegations of ¶ 12 of the Complaint for lack of knowledge.

13. The Attorney General denies the allegations of ¶ 13 of the Complaint for lack of knowledge.

14. The Attorney General denies the allegations of ¶ 14 of the Complaint for lack of knowledge.

15. The Attorney General denies the allegations of ¶ 15 of the Complaint.

16. The Attorney General denies the allegations of ¶ 16 of the Complaint.

17. The Attorney General denies the allegations of ¶ 17 of the Complaint.

18. In response to the allegations of ¶ 18 of the Complaint, the Attorney General admits that attorneys appointed as Special Counsel to collect debts owed to the State of Ohio are generally required to use official Attorney General letterhead in correspondence with debtors and that Plaintiffs may have received such letters, and denies the remaining allegations.

19. The Attorney General denies the allegations of ¶ 19 of the Complaint.

20. The Attorney General admits that Plaintiffs seek certain relief as prayed for in the Complaint and denies the remaining allegations of ¶ 20 of the Complaint.

21. The Attorney General admits that Plaintiffs seek certain relief as prayed for in the Complaint and denies the remaining allegations of ¶ 21 of the Complaint.

22. The Attorney General denies the allegations of ¶ 22 of the Complaint for lack of knowledge.

23. The Attorney General denies the allegations of ¶ 23 of the Complaint for lack of knowledge.

24. In response to the allegations of ¶ 24 of the Complaint, the Attorney General admits that Eric A. Jones and Mark Sheriff were appointed as Special Counsel pursuant to the Attorney General's statutory authority and that they entered into contracts further defining their duties and relationship with the Attorney General, and denies the remaining allegations.

25. In response to the allegations of ¶ 25 of the Complaint, the Attorney General admits that Exhibit

A to the Complaint is a true and accurate copy of one form of agreement executed generally by Special Counsel appointed for FY 2012, and denies the remaining allegations.

26. In response to the allegations of ¶ 26 of the Complaint, the Attorney General admits that Exhibit B to the Complaint is a true and accurate copy of one form of agreement executed generally by Special Counsel appointed for FY 2013, and denies the remaining allegations.

27. In response to the allegations of ¶ 27 of the Complaint, the Attorney General admits that the Exhibits to the Complaint speak for themselves and denies any inconsistent allegation.

28. In response to the allegations of ¶ 28 of the Complaint, the Attorney General admits that the Exhibits to the Complaint speak for themselves and denies any inconsistent allegation.

29. Paragraph 29 of the Complaint states a legal conclusion to which no response is required. Notwithstanding the foregoing, in response to the allegations of ¶ 29 of the Complaint, the Attorney General admits that the Exhibits to the Complaint speak for themselves and denies any inconsistent allegation. Further answering, that Attorney General states that the authority of Special Counsel to act for the State depends on their appointment pursuant to statute and not on their status as employee or independent contractor.

30. Paragraph 30 of the Complaint states a legal conclusion to which no response is required. Notwithstanding the foregoing, in response to the allegations of ¶ 30 of the Complaint, the Attorney

General states that Special Counsel's status as independent contractors is irrelevant to this action. Further answering, that Attorney General states that the authority of Special Counsel to act for the State depends on their appointment pursuant to statute and not on their status as employee or independent contractor.

31. Paragraph 31 of the Complaint states a legal conclusion to which no response is required. Notwithstanding the foregoing, in response to the allegations of ¶ 31 of the Complaint, the Attorney General states that Special Counsel's status as independent contractors is irrelevant to this action. Further answering, that Attorney General states that the authority of Special Counsel to act for the State depends on their appointment pursuant to statute and not on their status as employee or independent contractor.

32. The Attorney General denies the allegations of ¶ 32 of the Complaint.

33. In response to the allegations of ¶ 33 of the Complaint, the Attorney General admits that Special Counsel generally identify themselves in collections correspondence and use official Attorney General letterhead in correspondence with debtors, and denies any inconsistent allegation.

34. The Attorney General admits that other attorneys appointed as Special Counsel have signed Retention Agreements for fiscal year 2012 and/or fiscal year 2013 and are not named as defendants in this suit. The Attorney General denies the remaining allegations of ¶ 34 of the Complaint.

35. In response to the allegations of ¶ 35 of the Complaint, the Attorney General admits that attorneys appointed as Special Counsel to collect debts owed to the State of Ohio are generally directed to use official Attorney General letterhead in correspondence with debtors, and denies the remaining allegations.

36. In response to the allegations of ¶ 36 of the Complaint, the Attorney General admits that attorneys appointed as Special Counsel to collect debts owed to the State of Ohio are generally required to use official Attorney General letterhead in correspondence with debtors, and that one Special Counsel, Robert Schuerger, requested and received permission, at some unknown time in the past, to use his own letterhead. The Attorney General denies the remaining allegations of ¶36 of the Complaint.

37. The Attorney General admits the allegations of ¶ 37 of the Complaint.

38. The Attorney General denies the allegations of ¶ 38 of the Complaint.

39. The Attorney General denies the allegations of ¶ 39 of the Complaint for lack of knowledge.

40. The Attorney General denies the allegations of ¶ 40 of the Complaint for lack of knowledge.

41. The Attorney General admits the allegations of ¶ 41 of the Complaint.

42. The Attorney General admits the allegations of ¶ 42 of the Complaint.

43. The Attorney General admits the allegations of ¶ 43 of the Complaint.

44. The Attorney General denies the allegations of ¶ 44 of the Complaint for lack of knowledge.

45. The Attorney General admits the allegations of ¶ 45 of the Complaint.

46. In response to the allegations of ¶ 46 of the Complaint, the Attorney General admits that his duties and authority are as prescribed by law and denies any inconsistent allegations.

47. In response to the allegations of ¶ 47 of the Complaint, the Attorney General admits that his duties and authority are as prescribed by law and denies any inconsistent allegations.

48. The Attorney General denies the allegations of ¶ 48 of the Complaint for lack of knowledge.

49. The Attorney General denies the allegations of ¶ 49 of the Complaint for lack of knowledge.

50. The Attorney General denies the allegations of ¶ 50 of the Complaint for lack of knowledge.

51. In response to the allegations of ¶ 51 of the Complaint, the Attorney General admits that Eric A. Jones operates a business known as Law Office of Eric A. Jones, L.L.C., and denies the remaining allegations.

52. The Attorney General denies the allegations of ¶ 52 of the Complaint for lack of knowledge.

53. In response to the allegations of ¶ 53 of the Complaint, the Attorney General admits that the Exhibits to the Complaint speak for themselves and denies any inconsistent allegation.

54. The Attorney General denies the allegations of ¶ 54 of the Complaint for lack of knowledge.

55. The Attorney General denies the allegations of ¶ 55 of the Complaint for lack of knowledge.

56. The Attorney General denies the allegations of ¶ 56 of the Complaint for lack of knowledge.

57 In response to the allegations of ¶ 57 of the Complaint, the Attorney General admits that the Exhibits to the Complaint speak for themselves and denies any inconsistent allegation.

58. In response to the allegations of ¶ 58 of the Complaint, the Attorney General admits that the Exhibits to the Complaint speak for themselves and denies any inconsistent allegation.

59. In response to the allegations of ¶ 59 of the Complaint, the Attorney General admits that the Exhibits to the Complaint speak for themselves and denies any inconsistent allegation.

60. The Attorney General denies the allegations of ¶ 60 of the Complaint.

61. The Attorney General admits the allegations of ¶ 61 of the Complaint.

62. The Attorney General denies the allegations of ¶ 62 of the Complaint for lack of knowledge.

63. The Attorney General denies the allegations of ¶ 63 of the Complaint for lack of knowledge.

64. In response to the allegations of ¶ 64 of the Complaint, the Attorney General admits that the Exhibits to the Complaint speak for themselves and denies any inconsistent allegation.

65. The Attorney General denies the allegations of ¶ 65 of the Complaint for lack of knowledge.

66. The Attorney General denies the allegations of ¶ 66 of the Complaint for lack of knowledge.

67. The Attorney General denies the allegations of ¶ 67 of the Complaint for lack of knowledge.

68. The Attorney General denies the allegations of ¶ 68 of the Complaint for lack of knowledge.

69. In response to the allegations of ¶ 69 of the Complaint, the Attorney General admits that the Exhibits to the Complaint speak for themselves and denies any inconsistent allegation.

70. In response to the allegations of ¶ 70 of the Complaint, the Attorney General admits that the Exhibits to the Complaint speak for themselves and denies any inconsistent allegation.

71. The Attorney General denies the allegations of ¶ 71 of the Complaint for lack of knowledge.

72. The Attorney General denies the allegations of ¶ 72 of the Complaint.

73. The Attorney General denies the allegations of ¶ 73 of the Complaint for lack of knowledge.

74. In response to the allegations of ¶ 74 of the Complaint, the Attorney General admits that the Exhibits to the Complaint speak for themselves and denies any inconsistent allegation.

75. The Attorney General denies the allegations of ¶ 75 of the Complaint for lack of knowledge.

76. In response to the allegations of ¶ 76 of the Complaint, the Attorney General admits that the Exhibits to the Complaint speak for themselves and denies any inconsistent allegation.

77. The Attorney General admits the allegations of ¶ 77 of the Complaint.

78. The Attorney General admits the allegations of ¶ 78 of the Complaint.

79. In response to the allegations of ¶ 79 of the Complaint, the Attorney General admits that the Exhibits to the Complaint speak for themselves and denies any inconsistent allegation.

80. The Attorney General denies the allegations of ¶ 80 of the Complaint.

81. In response to the allegations of ¶ 81 of the Complaint, the Attorney General admits that the Exhibits to the Complaint speak for themselves and denies any inconsistent allegation.

82. The Attorney General denies the allegations of ¶ 82 of the Complaint for lack of knowledge.

83. In response to the allegations of ¶ 83 of the Complaint, the Attorney General admits that the Exhibits to the Complaint speak for themselves and denies any inconsistent allegation.

84. Paragraph 84 of the Complaint states a legal conclusion to which no response is required. Notwithstanding the foregoing, the Attorney General admits that during their retention as Special Counsel, Defendant Individuals supervise the process through which collection letters are prepared and sent from their own offices. Further answering, that Attorney General states that the authority of Special Counsel to act for the State depends on their appointment pursuant to statute and not on their status as employee or independent contractor.

85. The Attorney General denies the allegations of ¶ 85 of the Complaint.

86. The Attorney General denies the allegations of ¶ 86 of the Complaint.

87. The Attorney General denies the allegations of ¶ 87 of the Complaint.

88. The Attorney General denies the allegations of ¶ 88 of the Complaint.

89. The Attorney General denies the allegations of ¶ 89 of the Complaint.

90. The Attorney General denies the allegations of ¶ 90 of the Complaint.

91. The Attorney General denies the allegations of ¶ 91 of the Complaint.

92. The Attorney General denies the allegations of ¶ 92 of the Complaint for lack of knowledge.

93. The Attorney General admits that Plaintiffs seek certain relief as prayed for in the Complaint and denies the remaining allegations of ¶ 93 of the Complaint.

94. The Attorney General denies the allegations of ¶ 94 of the Complaint for lack of knowledge.

95. The Attorney General admits the allegations of ¶ 95 of the Complaint.

96. The Attorney General denies the allegations of ¶ 96 of the Complaint for lack of knowledge.

97 The Attorney General denies the allegations of ¶ 97 of the Complaint for lack of knowledge.

98. The Attorney General denies the allegations of ¶ 98 of the Complaint for lack of knowledge.

99. The Attorney General denies the allegations of ¶ 99 of the Complaint for lack of knowledge.

100. The Attorney General denies the allegations of ¶ 100 of the Complaint for lack of knowledge.

101. The Attorney General denies the allegations of ¶ 101 of the Complaint for lack of knowledge.

102. The Attorney General denies the allegations of ¶ 102 of the Complaint for lack of knowledge.

103. The Attorney General denies the allegations of ¶ 103 of the Complaint for lack of knowledge.

104. The Attorney General denies the allegations of ¶ 104 of the Complaint for lack of knowledge.

105. The Attorney General denies the allegations of ¶ 105 of the Complaint.

106. The Attorney General denies the allegations of ¶ 106 of the Complaint.

107. The Attorney General denies the allegations of ¶ 107 of the Complaint because there is no wrong to redress in this case.

108. The Attorney General denies the allegations of ¶ 108 of the Complaint for lack of knowledge.

109. The Attorney General denies the allegations of ¶ 109 of the Complaint because no recovery is available to any plaintiff under the facts alleged in this case.

110. The Attorney General denies the allegations of ¶ 110 of the Complaint for lack of knowledge.

111. The Attorney General denies the allegations of ¶ 111 of the Complaint for lack of knowledge.

112. The Attorney General admits that Plaintiffs seek certain relief as prayed for in the Complaint and denies the remaining allegations of ¶ 112 of the Complaint.

113. The Attorney General admits that Plaintiffs seek certain relief as prayed for in the Complaint and denies the remaining allegations of ¶ 113 of the Complaint.

114. The Attorney General denies the allegations of ¶ 114 of the Complaint.

115. In response to the allegations of ¶ 115 of the Complaint, the Attorney General realleges and reincorporates the foregoing responses.

116. The Attorney General denies the allegations of ¶ 116 of the Complaint.

117. The Attorney General denies the allegations of ¶ 117 of the Complaint.

118. The Attorney General denies the allegations of ¶ 118 of the Complaint.

119. The Attorney General denies the allegations of ¶ 119 of the Complaint.

120. The Attorney General denies the allegations of ¶ 120 of the Complaint.

121. The Attorney General denies the allegations of ¶ 121 of the Complaint.

122. The Attorney General denies the allegations of ¶ 122 of the Complaint.

123. The Attorney General denies the allegations of ¶ 123 of the Complaint.

124. The Attorney General denies the allegations of ¶ 124 of the Complaint.

125. In response to the allegations of ¶ 125 of the Complaint, the Attorney General realleges and reincorporates the foregoing responses.

126. The Attorney General denies the allegations of ¶ 126 of the Complaint.

127. The Attorney General denies the allegations of ¶ 127 of the Complaint.

128. In response to the allegations of ¶ 128 of the Complaint, the Attorney General realleges and reincorporates the foregoing responses.

129. The Attorney General denies the allegations of ¶ 129 of the Complaint.

130. The Attorney General denies the allegations of ¶ 130 of the Complaint.

131. In response to the allegations of ¶ 131 of the Complaint, the Attorney General realleges and reincorporates the foregoing responses.

132. The Attorney General denies the allegations of ¶ 132 of the Complaint.

133. The Attorney General denies the allegations of ¶ 133 of the Complaint.

134. In response to the allegations of ¶ 134 of the Complaint, the Attorney General realleges and reincorporates the foregoing responses.

135. The Attorney General denies the allegations of ¶ 135 of the Complaint.

136. The Attorney General denies the allegations of ¶ 136 of the Complaint.

WHEREFORE, Defendant Attorney General Michael DeWine, having fully answered, respectfully requests that the Plaintiffs' Complaint be dismissed and for such other relief as may be appropriate.

COUNTERCLAIM OF INTERVENING DEFENDANT OHIO ATTORNEY GENERAL

1. Ohio Attorney General Michael DeWine (the "Attorney General") is the chief law officer for the State of Ohio.

2. The Attorney General's duties include pursuing the collection of debts owed to the State of Ohio through its various agencies, boards, commissions, universities and political subdivisions. In addition to tax debts that are not subject to the dispute between the parties in this matter, some of those debts include medical bills, student tuition and other non-tax debts.

3. As part of the effort to fulfill those collections duties, at all times relevant hereto, the Attorney General has annually appointed attorneys to act as special counsel for collections (the "Special Counsel",) pursuant to the authority of R.C. 109.08, which specifically provides that "[t]he attorney general may appoint special counsel to represent the state in connection with all claims of whatsoever nature which are certified to the attorney general for collection under any law or which the attorney general is authorized to collect."

4. The Attorney General regularly appoints individual attorneys to act as Special Counsel for collection of claims.

5. Special Counsel are members of the unclassified civil service of the State of Ohio pursuant to R.C.

124.11(A)(11), which provides that: "The unclassified service shall comprise the following positions, which shall not be included in the classified service, and which shall be exempt from all examinations required by this chapter: ... Assistants to the attorney general, special counsel appointed or employed by the attorney general, assistants to county prosecuting attorneys, and assistants to city directors of law...."

6. Special Counsel attempt to collect and do collect debts certified to the Ohio Attorney General. Such debts are claims of varying nature that are owed to various agencies and entities of the State of Ohio.

7. In order to assure debtors that Special Counsel are duly authorized representatives of the Attorney General's office collecting debts of the State of Ohio, the Attorney General has authorized the attorneys appointed as Special Counsel for collections to use the official letterhead stationery of the Attorney General in their collections communications, including collections efforts for non-tax debts. Some Special Counsel refer to themselves as "special counsel" in communications with consumer debtors and some Special Counsel refer to themselves as "outside counsel."

8. The Attorney General requires Special Counsel by contract, verbally or in writing, to use official letterhead stationery of the Ohio Attorney General for all collection activities regardless of whether they arise out of taxes.

9. The term "official letterhead stationery of the Attorney General" means for the purposes of this declaratory judgment action, Special Counsel's use of the letterhead of the Ohio Attorney General,

including the name of the Ohio Attorney General, the seal of the State of Ohio, and/or the seal of the Ohio Attorney General.

10. The use of the Attorney General letterhead by Special Counsel is lawful and does not constitute deceptive, untruthful, unfair or unconscionable conduct in relation to collections activities under any of the applicable state or federal laws.

11. Special Counsel appointed for collections enter into written contracts with the Attorney General. Each fiscal year standardized contracts are executed between the Special Counsel and the Attorney General.

12. Special Counsel are not employees of the State. Special Counsel do not receive health care benefits from the State of Ohio, and Special Counsel do not participate in the Public Employees Retirement System by reason of being "special counsel." Special Counsel are not paid a salary by the Attorney General but rather Special Counsel are paid for their services from funds Special Counsel collect as set forth in the written contracts. Special Counsel are provided with 1099 forms from the Attorney General or State of Ohio for tax purposes. The Attorney General may terminate the relationship with Special Counsel in the Attorney General's sole discretion and without cause or duty of explanation.

13. Special Counsel are free to perform legal work for other clients besides the Ohio Attorney General and/or the State of Ohio so long as there is not a conflict of interest under Ohio Rules of Professional Conduct or as determined pursuant to the discretion of the Attorney General. Special Counsel do not use office space provided by the Attorney General and/or

the State of Ohio, nor are they provided with state vehicles, expense accounts or credit cards by the State of Ohio or the Attorney General. Special Counsel may use other people within Special Counsel's organization, namely their own law firm, to assist in collection of the claims assigned by the State of Ohio to Special Counsel. Special Counsel are not bonded by the Attorney General or the State of Ohio.

14. Debts owed to State agencies and political subdivisions are certified to the Attorney General for collection. Each debt is loaded into the Attorney General's electronic database known as the Columbia Ultimate Business System ("CUBS",). CUBS uses electronic "fields" for debtor name, identifying information, contact information, and client information, and automatically updates balances by adding interest and cost amounts, which may vary depending on the type of debt. Documents from the client agencies or political subdivisions that correspond with each debt are housed on a separate database known as "Content Manager," and are linked to the relevant CUBS accounts so that CUBS users can view documents associated with each debt. As additional documents are acquired during the collections process, they are uploaded into Content Manager and linked to the CUBS debt accounts.

15. Each debt is assigned an account code that will trigger pre-set actions to be applied to the account by the CUBS programming. A complex "forward master" program has been developed for each debt type, and the forward master programming will cause CUBS to generate a pre-selected number of collection letters to

debtors, and to "forward" the debts through a preselected collection process.

16. Most debts are initially forwarded by CUBS to in-house collection staff at the Attorney General's office, and are slated for delivery of a series of collection letters on Attorney General letterhead that are sent to the debtors. As debtors respond to the letters or calls by in-house collectors, payments and correspondence are added to the CUBS and/or Content Manager databases. CUBS maintains a running account balance and each adjustment to the account balance is documented, whether made electronically by CUBS, e.g., for interest or payment updates, or manually by staff, e.g., for adjustments based on updated information provided by the client and/or debtor or for settlements.

17. At each stage in the forward master process, when debts are forwarded they are not actually transferred out of the CUBS and Content Manager databases. Instead, the collectors are merely notified of the existence of the account and the assigned collector, whether it is an in-house employee, a Special Counsel or another external collector, is given access to the account on CUBS. Some of the Special Counsel operate a CUBS program on their own computer servers that "ghosts" the CUBS database for accounts assigned to them. However, those programs are tied to the CUBS program and all information entered on the independent databases is uploaded nightly to CUBS so that the CUBS account is accurate and complete at all times.

18. Most Special Counsel operate directly in the CUBS database through an internet interface known as "ClientView." ClientView is accessible to all State

client agencies and political subdivisions so they can monitor the progress of the debts and actually view the comments and documents linked to the CUBS account. When Special Counsel open Client View, they see the CUBS and Content Manager data in "real time" and information entered by the Special Counsel through ClientView is instantaneously entered into CUBS. Special Counsel are required by the Attorney General to keep CUBS updated with information regarding all contacts with debtors and all legal actions taken. Documents from Special Counsel are scanned and uploaded into the Content Manager database and linked to the debtor accounts on CUBS.

19. Special Counsel are contractually required by the Attorney General to comply with the standards of behavior set forth in the Fair Debt Collection Practices Act, and state in their letters to debtors that they are "debt collectors." This contractual requirement does not constitute an admission that the Act applies to the activities of the Special Counsel of Attorney General in regard to debt collection, but is intended to establish standards of conduct consistent with the standards applicable to debt collection practices in general.

20. Special Counsel draft, print, compile, and distribute each collection letter they use on the official letterhead stationery of the Attorney General. The Attorney General's Office does not individually review and authorize each collection letter sent by Special Counsel on the official letterhead stationery of the Attorney General, although specific language is mandated for routine collection letters and staff members of the Attorney General review Special

Counsel's standard letter templates during site visits.

21. Each Special Counsel has a true business name, company name or organization name which is different than the Attorney General's Office (for example, "John Doe, Attorney at Law" or "The Law Office of Jane Doe"). Each Special Counsel uses his or her true business name, company name or organization name in the collection letters they send using the official letterhead stationery of the Attorney General, and on the envelopes they use to send such collection letters.

22. Special Counsel are directed by the Attorney General to send letters to debtors on the Attorney General's official letterhead stationery. They are required to include their status as "Special Counsel" or "Outside Counsel" on the letters. Special Counsel have checks sent to their own places of business so that they can label the checks with the appropriate CUBS account numbers before they are deposited into the State's checking account. Therefore, all letters include the Special Counsel's address. Special Counsel use both the official letterhead stationery of the Attorney General's Office as well as their own names and their own law office names in their letters to debtors. Special Counsel use their own addresses on envelopes sent to debtors, and the Attorney General logo is not displayed on the envelopes. Special Counsel place their own name, and/or their own organization name rather than making reference to their designation as "special counsel" on the return address sections of the envelopes containing the collection letters to consumer debtors

bearing the letterhead of the Attorney General's Office.

23. Special Counsel work closely with Attorney General staff. Special Counsel are trained every year by Attorney General staff in customer service and debt collection techniques so that debtors are treated in conformity with Attorney General standards. If Special Counsel receive a customer service complaint, they will note the CUBS account and advise the Attorney General staff. Special Counsel are required to obtain Attorney General approval to file suit against a debtor, and to take other legal actions other than garnishments or judgment debtor examinations.

24. Each Special Counsel is assigned one or more account representatives at the Attorney General's office. Usually there is an account representative for tax debt and a different representative for non-tax debt, and there are specialized account representatives for certain debt types or matters, such as bankruptcy or foreclosure proceedings. If Special Counsel need to obtain information from the client agencies or political subdivisions, they request that information through the applicable Attorney General account representative. For example, if a debtor submits documentation that may alter a debt balance, the Special Counsel will forward that to the account representative, who will forward it to the client agency. The agency may choose to adjust the account balance, which will be reflected on CUBS. The Special Counsel and the account representative will enter notes on CUBS that discuss the handling of the documentation, and the documents will be uploaded to Content Manager and linked to the

CUBS account. The Special Counsel also have access to Assistant Attorneys General ("AAGs") who have specialized knowledge about each debt type. The Special Counsel may ask questions or obtain legal guidance from the AAGs, and there is an internal web site and chat forum where briefs, legal memoranda and discussions are shared.

25. Not all Special Counsel who collect debt for the Attorney General perform the same functions. The largest group of Special Counsel practice as General State Collections Counsel, and they are assigned a wide variety of debt types. Smaller groups of Special Counsel specialize in Bankruptcy Collection Matters, Medicaid Estate Recovery, Subrogation Collections, University Collections, University Medical Center Collections and Local Debt Collections. During Fiscal Year 2012, the Attorney General retained 86 Special Counsel. During Fiscal Year 2013, the Attorney General has retained 69 Special Counsel.

26. The operations of the Collections Enforcement Section of the Attorney General are of vital importance to the fiscal health of the State. In Fiscal Year 2012, the Attorney General collected over $466 million in debt owed to the State. Of that amount, over $191 million was collected by Special Counsel. As of December 31, 2012, the Attorney General had assigned 791,150 non-tax debt accounts with balances totaling $13,189,745,245.37 to Special Counsel for Fiscal Year 2012. Special Counsel are paid on a contingent basis in accordance with their respective retention agreements based on the amounts collected by them.

27. Debts owed to the State and certified to the Attorney General are accorded special statutory

advantages to aid in collections. The most significant is that such debts are eligible to be collected through state and federal tax refund offsets. Similarly, such debts may be collected through lottery and racino winning offsets. The Ohio Department of Taxation and the Ohio Lottery Commission check the CUBS database before refunds or winnings are paid to ensure offsets. In addition, owing debts to the State can sometimes adversely affect employment, e.g., debtors who owe findings for recovery pursuant to the audit of a public entity are precluded from entering into a contract with the State, educators who owe findings for recovery to educational entities may have their teaching or other educational licenses suspended, and insurance agents who owe debts that are subject to liens of the State may have their insurance licenses suspended.

28. Within the guidelines as presented by Attorney General staff to Special Counsel during training, Special Counsel generally exercise discretion regarding activities such as generating letters, compiling and mailing letters, phone correspondence, follow up communication, receiving payments, and forwarding payments.

29. Debtors frequently call Attorney General staff after receiving collection letters from Special Counsel. The debtors are generally assured that the debt is valid and being collected at the direction of the Attorney General and are directed to work with the Special Counsel to resolve the debt. If a debtor has concerns regarding the handling of their account by Special Counsel, the account representative assigned to that Special Counsel will seek to resolve the issues by communicating with both the Special

Counsel and the debtor. When complicated or sensitive legal matters are involved, AAGs and/or upper management of the Attorney General's office will work with Special Counsel and the debtors to resolve the issues.

30. AAGs frequently assist Special Counsel in drafting pleadings, and sometimes join cases as co-counsel to assist Special Counsel with particularly sensitive or complex cases. AAGs will "cover" cases for Special Counsel in special circumstances, e.g., attending hearings when a Special Counsel is ill or away, and in turn, Special Counsel have "covered" cases for AAGs, e.g., attending hearings for simple matters in remote areas of the State, even though the accounts are not assigned to the AAGs or Special Counsel that are providing the coverage.

31. In the event that there is a complaint about a Special Counsel, or if there is a concern that a Special Counsel may have violated a policy or guideline of the Attorney General, the Attorney General has a variety of options to address such issues, including counseling the Special Counsel conducting a site visit to review Special Counsel operations and/or to address Special Counsel staff who work on Attorney General accounts, requiring additional continuing legal education by the Special Counsel, directing that Special Counsel alter legal pleadings or correspondence, requiring additional approvals before taking specified actions such as offering payment plans, removing accounts from Special Counsel or limiting further assignments of accounts to Special Counsel and terminating the Special Counsel.

32. Plaintiffs have received collections letters from Special Counsel in relation to non-tax debts, including medical and student tuition debts, which letters were written using the official letterhead stationery of the Attorney General.

33. Plaintiffs assert that the Attorney General's authorization of the use of Attorney General letterhead by Special Counsel constitutes violations of various laws and have sued two individuals that have been appointed as Special Counsel by the Attorney General, and intend to sue others for those same claims.

34. The lawsuit by the plaintiffs against Special Counsel will interfere with the Attorney General's lawful collections activities; intimidate or coerce attorneys to refrain from pursuing appointments as special counsel for collections; inhibit and impede current Special Counsel's efforts to collect debts lawfully under such appointments; and interfere with the Attorney General's relationships with Special Counsel.

35. The Attorney General has a substantial interest in defending the practice of instructing Special Counsel to use Attorney General letterhead in collections communications as well as the statutes, orders and agreements underlying the practice.

36. The Eleventh Amendment to the United States Constitution shields the Ohio Attorney General and the State of Ohio from liability for damages claims under the Fair Debt Collection Practices Act, 15 U.S.C. 1692, *et seq.*

37. Principles of sovereign immunity shield the Ohio Attorney General and the State of Ohio from

liability for damages claims under the Fair Debt Collection Practices Act, 15 U.S.C. 1692, *et seq*.

38. The Attorney General is entitled to a declaration pursuant to 28 U.S.C. § 2201 that Special Counsel's use of Attorney General letterhead is letterhead not a violation of the Fair Debt Collection Practices Act.

39. The Attorney General is entitled to a declaration pursuant to 28 U.S.C. § 2201 that principles of sovereign immunity and the Eleventh Amendment to the United States Constitution confer immunity on the Ohio Attorney General and the State of Ohio from any liability under the Fair Debt Collection Practices Act, 15 U.S.C. 1692, *et seq*.

WHEREFORE, Plaintiff Ohio Attorney General asks this Court to grant plaintiff Ohio Attorney General relief as follows:

1. A declaration, pursuant to 28 U.S.C. § 2201 that the use of Attorney General letterhead by Special Counsel does not violate any provision of the federal Fair Debt Collection Practices Act, 15 U.S.C. 1692, *et seq*;

2. A declaration that principles of sovereign immunity and the Eleventh Amendment to the United States Constitution confer immunity on the Ohio Attorney General and the State of Ohio from any liability under the Fair Debt Collection Practices Act, 15 U.S.C. 1692, *et seq*.; and

3. Such other relief as may be appropriate.

Respectfully submitted,

MICHAEL DEWINE (0009181)
Ohio Attorney General

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COUNSEL FOR
INTERVENING DEFENDANT
AND COUNTERCLAIMANT
OHIO ATTORNEY GENERAL

CERTIFICATE OF SERVICE

On April 5, 2013 this document was served via this Court's electronic filing system on the following counsel of record:

Eric E. Willison, Esq.
4876 Cemetery Road
Hilliard, Ohio 43026

eewillison@earthlink.net

Counsel for plaintiffs

On April 5, 2013 a copy of this document was served via regular mail on the following:

Law Office of Eric A. Jones, LLC
c/o statutory agent for service of process
Eric A. Jones
2668 Welsford Road
Upper Arlington, Ohio 43221

Eric A. Jones
2668 Welsford Road
Upper Arlington, Ohio 43221

Wiles, Boyle, Burkholder & Bringardner Co., L.P.A.
c/o statutory agent for service of process
Kerry T. Boyle
300 Spruce Street Ste. 100
Columbus, Ohio 43215

Mark Sheriff
2330 Sandover Road
Upper Arlington, Ohio 43220

Sarah Sheriff
300 Spruce Street Ste. 100
Columbus, Ohio 43215

Defendants

/s/ Christopher P. Conomy
CHRISTOPHER P CONOMY
(0072094)

Doc. 25

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Case No. 2:13-cv-00212
Judge James L. Graham
Filed: August 22, 2013

PAMELA GILLIE, *et al.*,

Plaintiffs,

vs.

LAW OFFICE OF ERIC A. JONES, LLC, *et al.*,

Defendants.

ANSWER OF DEFENDANTS WILES, BOYLE, BURKHOLDER & BRINGARDNER CO., LPA, MARK SHERIFF AND SARAH SHERIFF TO PLAINTIFF'S COMPLAINT

JURY DEMAND ENDORSED HEREON

For their separate answers to the Complaint, defendants, Mark Sheriff, Sarah Sheriff and Wiles, Boyle, Burkholder & Bringardner:

First Defense

1. Admit the allegation in paragraph 1 of the Complaint.

2. Admit that Ohio Revised Code §109.88 allows the Attorney General to engage special counsel and that such counsel are required to sign a retention agreement and that special counsel are required to

use Attorney General letterhead and state that they are without knowledge or information sufficient to form a belief as to all the remaining allegations in paragraphs 2 through 10 and therefore deny the same.

3. Deny the allegations in paragraphs 11 and 12 of the Complaint.

4. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 12 through 26 and therefore deny these allegations.

5. Admit that there is a retention agreement and they are without knowledge or information sufficient to form a belief as to the truth of all the allegations in paragraphs 27 through 40 and therefore deny same.

6. State that they are without knowledge sufficient to form a belief as to the truth of the allegations in paragraphs 40 through 60 and therefore deny same.

7. Deny the allegations in paragraphs 61 through 86 and note that the Meadows letter is not attached.

8. State that they are without knowledge sufficient to form a belief as to the truth of the allegations in paragraphs 87 through 89 and therefore deny same.

9. Deny all the allegations in paragraphs 90 through 124.

10. Deny all the allegations in paragraphs 125 through 136.

11. Deny any allegation not specifically admitted to be true.

Second Defense

12. State that plaintiffs' claims in Federal Court are barred by the Eleventh Amendment.

Third Defense

13. State that plaintiffs' claims against these defendants are barred by absolute and/or qualified immunity.

Fourth Defense

14. State that the Complaint fails to state a claim upon which relief can be granted.

Fifth Defense

15. State that plaintiff Pamela Gillie lacks standing as her claims were part of the bankruptcy in Case No. 2:12-BK-5033.

Sixth Defense

16. State that the plaintiffs' claims against these defendants are barred by sovereign immunity and the Fair Debt Collection Practices Act.

Seventh Defense

17. State that since these defendants were required by law to use Ohio Attorney General letterhead and the plaintiffs' claims are thereby barred.

Eighth Defense

18. State that any actions taken by Sarah Sheriff and Mark Sheriff were taken in their capacity as employees of Wiles, Boyle, Burkholder & Bringardner and they are not personally liable under the Fair Debt Collection Practices Act.

WHEREFORE, having fully answered the Complaint herein, the defendants demand that said Complaint be dismissed and they recover their costs herein expended including a reasonable attorneys' fee.

/s/Dale D. Cook
Michael L. Close (0008586)
Dale D. Cook (0020707)
ISAAC WILES BURKHOLDER & TEETOR, LLC
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(614) 221-2121
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Attorneys for Defendants Mark Sheriff, Sarah Sheriff and Wiles, Boyle, Burkholder & Bringardner

JURY DEMAND

Defendants hereby demand trial by jury of all issues contained herein.

/s/Dale D. Cook
Dale D. Cook

CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2013, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/Dale D. Cook
Dale D. Cook

Doc. 31

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Case No. 2:13-cv-00212
Judge: GRAHAM
Magistrate Judge: PRESTON DEAVERS
Filed: September 10, 2013

PAMELA GILLIE, et al.,

Plaintiffs,

v.

LAW OFFICE OF ERIC A. JONES, LLC, et al.,

Defendants.

PLAINTIFFS' ANSWER TO COUNTERCLAIM OF INTERVENOR OHIO ATTORNEY GENERAL MICHAEL DEWINE

Now come the Plaintiffs in the above captioned matter and set forth below their ANSWER pursuant to *Fed. R. Civ. P. 12(a)(1)(B)* to the Counterclaim filed by intervenor, Ohio Attorney General, Michael DeWine ("OAG").

FIRST DEFENSE

1. Plaintiffs admit the statements made in ¶¶s 1, 2, 4, 8, 9, 11, 12, 13, 21, and 32 of the OAG's Counterclaim.

2. Plaintiffs deny the statements made in ¶¶s 10, 34, and 35 of the OAG's Counterclaim.

3. Plaintiffs deny for want of additional information, knowledge, legal conclusion and/or legal interpretation, the statements made in ¶¶s 5, 14, 15, 16, 17, 18, 20, 23, 24, 25, 27, 28, 29, 30, 31, 36, 37, 38 and 39 of the OAG's Counterclaim.

4. In reference to ¶ 3 of the OAG's Counterclaim, Plaintiffs admit that the OAG has annually appointed attorneys to act as special counsel, but deny for want of legal conclusion and/or interpretation all remaining statements made therein.

5. In reference to ¶ 6 of the OAG's Counterclaim, Plaintiffs admit that special counsel attempt to collect and do collect debts/claims of a varying nature that are owed to various agencies and entities of the State of Ohio, but deny for want of legal conclusion, interpretation, and/or the significance of, the undefined phrase "certified to the Ohio Attorney General" as such phrased is used therein.

6. In reference to ¶ 7 of the OAG's Counterclaim, Plaintiffs admit that some special counsel refer to themselves as "Special Counsel" while others refer to themselves as "Outside Counsel", but deny all remaining statements made therein.

7. In reference to ¶ 19 of the OAG's Counterclaim, Plaintiffs admit that "special counsel are contractually required by the Attorney General to comply with the standards and behavior set forth in the Fair Debt Collection Practices Act, and state in their letters to debtors that they are debt collectors", but deny for want of legal conclusion and/or interpretation all other statements made therein.

8. In reference to ¶ 22 of the OAG's Counterclaim, Plaintiffs admit that "special counsel are directed by the Attorney General to send letters to debtors on the Attorney General's official letterhead stationary, but deny for want of further information, knowledge, legal conclusion or interpretation, all remaining statements made therein.

9. In reference to ¶ 26 of the OAG's Counterclaim, Plaintiffs admit that special counsel are paid on a "contingent basis in accordance with their respective retention agreements based upon the amounts collected by them", but deny for want of further information and knowledge all remaining statements made therein.

10. In reference to ¶ 33 of the OAG's Counterclaim, Plaintiffs state as follows:

a. Plaintiffs categorically deny that they are challenging [or have ever challenged] whether the "Attorney General's *authorization* of the use of Attorney General letterhead" violates any laws;

b. Plaintiffs admit that they specifically assert that special counsel's actual use of the Office of the Attorney General's official letterhead stationary in the collection of actual consumer debts violates the Fair Debt Collection Practices Act [15 U.S.C. §1692 et seq.] ("FDCPA") in the numerous ways described in the Complaint;

c. Plaintiffs admit that they have in fact sued "two individuals" that have been hired by the OAG as special counsel, but state further that in addition to such individuals, Plaintiffs

have sued other law firms and employees of such law firms for violating the FDCPA in the numerous ways described in the Complaint;

d. Plaintiffs deny that they have asserted violations of "various laws" Plaintiffs state that their Complaint is predicated solely upon their case under the FDCPA.

e. Plaintiffs deny that they "intend to sue others for those same claims", but state that all such "others' are already juridically linked to the facts and circumstances outlined in Plaintiffs' Complaint and further, that upon proper certification such "others" may become part of a class or classes of defendants in this action.

11. Plaintiffs deny each and every other statement made in the OAG's Counterclaim not heretofore expressly admitted.

SECOND DEFENSE

12. The OAG's Counterclaim fails to state a claim upon which relief can be granted.

THIRD DEFENSE

13. Neither the OAG nor the State of Ohio has proper standing in this litigation to seek declaratory relief.

FOURTH DEFENSE

14. The Court lacks subject matter jurisdiction to consider the OAG's Counterclaim.

FIFTH DEFENSE

15. Plaintiffs' Complaint sets forth an actual case and controversy before the Court, and as such, the OAG's request for declaratory relief should be deemed imprudent and unnecessary.

SIXTH DEFENSE

16. Plaintiffs have not sought to resolve claims against the OAG or the State of Ohio. Plaintiffs have not asserted that either the OAG or the State of Ohio has violated the FDCPA. Plaintiffs have not alleged in any respect that either the OAG or the State of Ohio have committed violations of the FDCPA or are liable to Plaintiffs for damages under the FDCPA. Thus, the OAG's specific requests for declaratory relief are not ripe for determination.

SEVENTH DEFENSE

17. The OAG has no statutory authority or basis under 28 U.S.C. §2201 which to file or prosecute his declaratory relief requests.

EIGHTH DEFENSE

18. Plaintiffs reserve the right to supplement this ANSWER when discovery has been completed.

Respectfully submitted

NOBILE & THOMPSON CO., L.P.A.

/s/James E. Nobile
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Eric E. Willison (0066795)
Michael B. Zieg (0066386)
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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and authentic copy of the foregoing PLAINTIFFS' ANSWER TO COUNTERCLAIM OF INTERVENOR OHIO ATTORNEY GENERAL MICHAEL DEWINE was served this 10th day of SEPTEMBER 2013 via the Court's ECF/CM system by email at the address each recipient has registered with the Clerk:

Christopher P Conomy -
Christopher.Conomy@OhioAttorneyGeneral.gov
Sherry M. Phillips
Sherry.Phillips@OhioAttorneyGeneral.gov
Randall W. Knutti
Randall.Knutti@OhioAttorneyGeneral.gov
Boyd W. Gentry - Bgentry@boydgentrylaw.com
Dale D. Cook - dcook@isaacwiles.com
Michael L. Close mclose@isaacwiles.com
Mark Landes -mlandes@isaacwiles.com

NOBILE & THOMPSON CO., L.P.A.

/s/James E. Nobile
James E. Nobile (0059705)

Doc. 36-1

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO EASTERN DIVISION

Case No. 2:12-cv-01053
Judge Gregory L. Frost
Magistrate Judge Terrence P. Kemp
Filed: 10/07/2013

State of Ohio,

Plaintiff,

v.

Nobile & Thompson Co., L.P.A.,

Defendant.

JOINT STIPULATIONS OF FACT

Now come Plaintiff State of Ohio and Defendant Nobile & Thompson Co., L.P.A., and stipulate to the following factual findings:

1. The Ohio Attorney General is the chief law officer for the State of Ohio. The Attorney General's duties include pursuing the collection of debts owed to the State of Ohio through its various agencies, boards, commissions, universities and other political subdivisions. In addition to tax debts that are not subject to the dispute between the parties in this matter, some of those debts include medical bills, student tuition and other non-tax debts.

2. For the purpose of the January 30 hearing, **and for no other purpose,** the parties stipulate that

some debts collected by the Attorney General for the State may be assumed to be "consumer debts" under the relevant laws.

3. As used in these stipulations a "claim", "account" or "record" is a debt due to the State of Ohio.

4. The Attorney General regularly appoints individual attorneys to act as Special Counsel for collection of claims.

5. Special Counsel attempt to collect and do collect debts certified to the Ohio Attorney General. Such debts are claims of varying nature that are owed to various agencies and entities of the State of Ohio.

6. The Attorney General has authorized the attorneys appointed as Special Counsel for collections to use the official letterhead stationery of the Attorney General in their collections communications, including collections efforts for non-tax debts.

7. The Attorney General requires Special Counsel by contract, verbally or in writing, to use official letterhead stationery of the Ohio Attorney General for all collection activities regardless of whether they arise out of taxes.

8. The term "official letterhead stationery of the Attorney General" means for the purposes of these stipulations, Special Counsel's use of the letterhead of the Ohio Attorney General, including the name of the Ohio Attorney General, the seal of the State of Ohio, and/or the seal of the Ohio Attorney General.

9. Defendant Nobile & Thompson Co., L.P.A. is a professional association engaged in business as a law firm located in Hilliard, Ohio. A primary focus of the

practice of Nobile & Thompson is the representation of debtors and bankruptcy petitioners. Nobile & Thompson represents several individuals in relation to non-tax debts owed to the State of Ohio.

10. Several clients of Nobile & Thompson have received collections letters from Special Counsel in relation to non-tax debts, including medical and student tuition debts, which letters were written using the official letterhead stationery of the Attorney General. The letters are substantially similar in form and content to the exemplar letters attached as composite Exhibit A to these stipulations with personal identifiers redacted. Nobile & Thompson has asserted that the use of the Attorney General's official letterhead stationery by Special Counsel is a violation of various state and federal laws relating to collections activities and has demanded that the practice cease.

11. Defendant Nobile & Thompson sent a letter to the Attorney General (the "AG Letter"). A true and accurate copy of such letter is attached as Exhibit B.

12. Defendant Nobile & Thompson mailed identical letters to 82 current and former Special Counsel (the "Letters"). A true and accurate copy of one such letter, with personal identifiers redacted, is attached as Exhibit C.

13. Special Counsel appointed for collections enter into written contracts with the Attorney General. Each fiscal year standardized contracts are executed between the Special Counsel and the Attorney General. The contracts are substantially similar in form and content to the exemplar contracts attached to these stipulations as Exhibit D (for Fiscal Year 2012) and Exhibit E (for Fiscal Year 2013).

14. Special Counsel are not employees of the State.

15. The Attorney General may terminate the relationship with Special Counsel in the Attorney General's sole discretion and without cause or duty of explanation.

16. Special Counsel do not receive health care benefits from the State of Ohio.

17. Special Counsel do not participate in the Public Employees Retirement System by reason of being "special counsel."

18. Special Counsel are not paid a salary by the Attorney General but rather Special Counsel are paid for their services from funds Special Counsel collect as set forth in the written contracts.

19. Special Counsel are free to perform legal work for other clients besides the Ohio Attorney General and/or the State of Ohio so long as there is not a conflict of interest under Ohio Rules of Professional Conduct or as determined pursuant to the discretion of the Attorney General.

20. Special Counsel do not use office space provided by the Attorney General and/or the State of Ohio.

21. Special Counsel are not issued W-2**[ILLEGIBLE]** by the Attorney General or the State of Ohio for tax purposes.

22. Special Counsel are provided with 1099**[ILLEGIBLE]** from the Attorney General or State of Ohio for tax purposes.

23. Special Counsel are not provided with state vehicles by the State of Ohio or the Attorney General.

24. Special Counsel are not provided with expense accounts from the State of Ohio or the Attorney General.

25. Special Counsel are not provided with credit cards from the State of Ohio or the Attorney General.

26. Special Counsel may use other people within Special Counsel's organization, namely their own law firm, to assist in collection of the claims assigned by the State of Ohio to Special Counsel.

27. Some Special Counsel refer to themselves as "special counsel" in communications with consumer debtors and some Special Counsel refer to themselves as "outside counsel."

28. Special Counsel are not bonded by the Attorney General or the State of Ohio.

29. The Attorney General's Office does not individually review and authorize each collection letter sent by Special Counsel on the official letterhead stationery of the Attorney General, although specific language is mandated for routine collection letters and staff members of the Attorney General review Special Counsel's standard letter templates during site visits.

30. Special Counsel draft, print, compile, and distribute each collection letter they use on the official letterhead stationery of the Attorney General.

31. Each Special Counsel has a true business name, company name or organization name which is different than the Attorney General's Office (for example, "John Doe, Attorney at Law" or "The Law Office of Jane Doe").

32. Each Special Counsel uses his or her true business name, company name or organization name in the course of practicing law as to matters not related to his or her designation as "special counsel" by the Attorney General.

33. Each Special Counsel uses his or her true business name, company name or organization name m the collection letters they send using the official letterhead stationery of the Attorney General.

34. Each Special Counsel uses his or her true business name, company name or organization name on the envelopes they use to send collection letters with the official letterhead stationery of the Attorney General.

35. "Special Counsel" are contractually required by the Attorney General to comply with the standards of behavior set forth in the Fair Debt Collection Practices Act.

36. Special Counsel state in their letters to debtors that they are "debt collectors."

37 Debts owed to State agencies and political subdivisions are certified to the Attorney General for collection Each debt is loaded into the Attorney General's electronic database known as the Columbia Ultimate Business System ("CUBS"). CUBS uses electronic "fields" for debtor name, identifying information, contact information, and client information, and automatically updates balances by adding interest and cost amounts, which may vary depending on the type of debt. Documents from the client agencies or political subdivisions that correspond with each debt are housed on a separate database known as "Content Manager," and are

linked to the relevant CUBS accounts so that CUBS users can view documents associated with each debt. As additional documents are acquired during the collections process, they are uploaded into Content Manager and linked to the CUBS debt accounts.

38. Each debt is assigned an account code that will trigger pre-set actions to be applied to the account by the CUBS programming. A complex "forward master" program has been developed for each debt type, and the forward master programming will cause CUBS to generate a pre-selected number of collection letters to debtors, and to "forward" the debts through a pre-selected collection process.

39. Most debts are initially forwarded by CUBS to in-house collection staff at the Attorney General's office, and are slated for delivery of a series of collection letters on Attorney General letterhead that are sent to the debtors. As debtors respond to the letters or calls by in-house collectors, payments and correspondence are added to the CUBS and/or Content Manager databases. CUBS maintains a running account balance and each adjustment to the account balance is documented, whether made electronically by CUBS, e.g., for interest or payment updates, or manually by staff, e.g., for adjustments based on updated information provided by the client and/ or debtor or for settlements.

40. Unless the debts are paid or have recent payments applied to the account, most debts are then forwarded by CUBS to Third Party Vendors ("TPVs") for further collection efforts. Unless the debts are paid or have recent payments applied to the account, most debts are then forwarded by CUBS to Special Counsel for further collection efforts. Unless debts

are paid or have recent payments applied to the account, most debts are forwarded by CUBS to distressed debt vendors ("DDVs").

41. The Attorney General routinely sweeps inactive accounts from Special Counsel and reassigns them to the CUBS forward master program, which will automatically assign the accounts to a different Special Counsel. At the end of the DDV stage, unless the debts are paid or have recent payments applied to the accounts, they are then forwarded by CUBS to the archive, where the debts lay dormant until written off. Statutorily, all debts must be written off after forty years, although many State clients write off debts after fifteen years. The Attorney General operates a program for archived debt where each debt is examined for further collection efforts, and debts in archive can be returned to the active database, e.g., if a previously uncollectable debtor obtains a lottery payout or any of the above collectors learns of a reason why a debt should be reactivated.

42. At each stage in the forward master process, when debts are forwarded they are not actually transferred out of the CUBS and Content Manager databases. Instead, the collectors are merely notified of the existence of the account and the assigned collector, whether it is an in-house employee, a Special Counsel, a TPV or a DDV, is given access to the account on CUBS. Some of the Special Counsel and most of the TPVs and DDVs operate a CUBS program on their own computer servers that "ghosts" the CUBS database for accounts assigned to them. However, those programs are tied to the CUBS program and all information entered on the independent databases is uploaded nightly to CUBS

so that the CUBS account is accurate and complete at all times.

43. Most Special Counsel operate directly in the CUBS database through an internet interface known as "ClientView." ClientView is accessible to all State client agencies and political subdivisions so they can monitor the progress of the debts and actually view the comments and documents linked to the CUBS account. When Special Counsel open ClientView, they see the CUBS and Content Manager data in "real time" and information entered by the Special Counsel through ClientView is instantaneously entered into CUBS. Special Counsel are required by the Attorney General to keep CUBS updated with information regarding all contacts with debtors and all legal actions taken. Documents from Special Counsel are scanned and uploaded into the Content Manager database and linked to the debtor accounts on CUBS.

44. Special Counsel are directed by the Attorney General to send letters to debtors on the Attorney General's official letterhead stationery. They are required to include their status as "Special Counsel" or "Outside Counsel" on the letters. Special Counsel have checks sent to their own places of business so that they can label the checks with the appropriate CUBS account numbers before they are deposited into the State's checking account. Therefore, all letters include the Special Counsel's address. Sample copies of letters sent by Special Counsel with individual identifiers redacted are attached as composite Exhibit A. Special Counsel use their own addresses on envelopes sent to debtors, and the

Attorney General logo is not displayed on the envelopes.

45. Special Counsel work closely with Attorney General staff. Special Counsel are trained every year by Attorney General staff in customer service and debt collection techniques so that debtors are treated in conformity with Attorney General standards. If Special Counsel receive a customer serv1ce complaint, they will note the CUBS account and advise the Attorney General staff. Special Counsel are required to obtain Attorney General approval to file suit against a debtor, and to take other legal actions other than garnishments or judgment debtor examinations.

46. Each Special Counsel is assigned one or more account representatives at the Attorney General's office. Usually there 1S an account representative for tax debt and a different representative for non-tax debt, and there are specialized account representatives for certain debt types or matters, such as bankruptcy or foreclosure proceedings. If Special Counsel need to obtain information from the client agencies or political subdivisions, they request that information through the applicable Attorney General account representative. For example, if a debtor submits documentation that may alter a debt balance, the Special Counsel will forward that to the account representative, who will forward it to the client agency. The agency may choose to adjust the account balance, which will be reflected on CUBS. The Special Counsel and the account representative will enter notes on CUBS that discuss the handling of the documentation, and the documents will be uploaded to Content Manager and linked to the

CUBS account. The Special Counsel also have access to Assistant Attorneys General ("AAGs") who have specialized knowledge about each debt type. The Special Counsel may ask questions or obtain legal guidance from the AAGs, and there is an internal web site and chat forum where briefs, legal memoranda and discussions are shared.

47 Not all Special Counsel who collect debt for the Attorney General perform the same functions. The largest group of Special Counsel practice as General State Collections Counsel, and they are assigned a wide variety of debt types. Smaller groups of Special Counsel specialize in Bankruptcy Collection Matters, Medicaid Estate Recovery, Subrogation Collections, University Collections, University Medical Center Collections and Local Debt Collections. During Fiscal Year 2012, the Attorney General retained 86 Special Counsel. During Fiscal Year 2013, the Attorney General has retained 69 Special Counsel.

48. The operations of the Collections Enforcement Section of the Attorney General are of vital importance to the fiscal health of the State. In Fiscal Year 2012, the Attorney General collected over $466 million in debt owed to the State. Of that amount, over $191 million was collected by Special Counsel, and over $85 million was collected by TPVs and DDVs. As of December 31, 2012, the Attorney General had assigned 791,150 non-tax debt accounts with balances totaling $13,189,745,245.37 to Special Counsel for Fiscal Year 2012. Special Counsel are paid on a contingent basis in accordance with their respective retention agreements based on the amounts collected by them.

49. Debts owed to the State and certified to the Attorney General are accorded special statutory advantages to aid in collections. The most significant is that such debts are eligible to be collected through state and federal tax refund offsets. Similarly, such debts may be collected through lottery and racino winning offsets. The Ohio Department of Taxation and the Ohio Lottery Commission check the CUBS database before refunds or winnings are paid to ensure offsets. In addition, owing debts to the State can sometimes adversely affect employment, e.g., debtors who owe findings for recovery pursuant to the audit of a public entity are precluded from entering into a contract with the State, educators who owe findings for recovery to educational entities may have their teaching or other educational licenses suspended, and insurance agents who owe debts that are subject to liens of the State may have their insurance licenses suspended.

50. Within the guidelines as presented by Attorney General staff to Special Counsel during training, Special Counsel generally exercise discretion regarding activities such as generating letters, compiling and mailing letters, phone correspondence, follow up communication, receiving payments, and forwarding payments.

51. Debtors frequently call Attorney General staff after receiving collection letters from Special Counsel. The debtors are generally assured that the debt is valid and being collected at the direction of the Attorney General and are directed to work with the Special Counsel to resolve the debt. If a debtor has concerns regarding the handling of their account by Special Counsel, the account representative

assigned to that Special Counsel will seek to resolve the issues by communicating with both the Special Counsel and the debtor. When complicated or sensitive legal matters are involved, AAGs and/or upper management of the Attorney General's office will work with Special Counsel and the debtors to resolve the issues.

52. AAGs frequently assist Special Counsel in drafting pleadings, and sometimes join cases as co-counsel to assist Special Counsel with particularly sensitive or complex cases. AAGs will "cover" cases for Special Counsel in special circumstances, e.g., attending hearings when a Special Counsel is ill or away, and in turn, Special Counsel have "covered" cases for AAGs, e.g., attending hearings for simple matters in remote areas of the State, even though the accounts are not assigned to the AAGs or Special Counsel that are providing the coverage.

53. In the event that there is a complaint about a Special Counsel, or if there is a concern that a Special Counsel may have violated a policy or guideline of the Attorney General, the Attorney General has a variety of options to address such issues, including counseling the Special Counsel, conducting a site visit to review Special Counsel operations and/or to address Special Counsel staff who work on Attorney General accounts, requiring additional continuing legal education by the Special Counsel, directing that Special Counsel alter legal pleadings or correspondence, requiring additional approvals before taking specified actions such as offering payment plans, removing accounts from Special Counselor limiting further assignments of

accounts to Special Counsel, and terminating the Special Counsel.

54. Special Counsel use both the official letterhead stationery of the Attorney General's Office as well as their own names and their own law office names in their letters to debtors.

55. Special Counsel place their own name, and/or their own organization name rather than making reference to their designation as "special counsel" on the return address sections of the envelopes containing the collection letters to consumer debtors bearing the letterhead of the Attorney General's Office.

APPROVED and AGREED by:

NOBILE & THOMPSON CO., L.P.A.

/s/Eric E. Willison
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NOBILE & THOMPSON CO. L.P.A.

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COUNSEL FOR PLAINTIFF STATE OF OHIO

Doc. 47-1 **EXHIBIT "1"**

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Case No. 2:13-cv-00212
Judge James L. Graham
Filed: February 3, 2014

PAMELA GILLIE, *et al.*,

Plaintiffs,

vs.

LAW OFFICE OF ERIC A. JONES, LLC, *et al.*,

Defendants.

AFFIDAVIT OF MARK J. SHERIFF

STATE OF OHIO :
: ss.
COUNTY OF FRANKLIN :

Mark J. Sheriff, being duly cautioned and sworn, deposes and states:

1. He has personal knowledge of the facts recited in this Affidavit.

2. In 2012, he was a partner in the law firm of Wiles, Boyle, Burkholder & Bringardner, and he was appointed special counsel by the Ohio Attorney General.

3. A true and accurate copy of the retention agreement in effect on July 20, 2012 appointing him special collections counsel is attached as Exhibit A.

4. As part of his appointment as special counsel, he and any employees of Wiles, Boyle, Burkholder & Bringardner were required to use Ohio Attorney General letterhead on their communications with debtors.

5. As the use of state letterhead was required by the Ohio Attorney General, he did not believe or have any knowledge that such use was improper or that it could violate the Fair Debt Collection Practices Act.

6. Like the identification of the Law Office of Eric Jones in Exhibit C to the Complaint, any communication from Wiles, Boyle, Burkholder & Bringardner when acting as special counsel, identified Wiles, Boyle, Burkholder & Bringardner and directed payment to Wiles, Boyle, Burkholder & Bringardner at its address.

7. Further affiant sayeth naught.

/s/Mark J. Sheriff
Mark J. Sheriff

Sworn to before me and subscribed in my presence this 29 day of January, 2014.

/s/Lizabeth A. Russell
Notary Public

[notary seal]

Doc. 48-1 **EXHIBIT A**

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Case No. 2:13-cv-212
Judge Graham
Magistrate Judge Deavers
Filed: February 3, 2014

Pamela Gillie, et al.,

Plaintiffs,

v.

Law Office of Eric A. Jones, LLC, et al.,

Defendants.

AFFIDAVIT OF PAMELA GILLIE

STATE OF OHIO)
) SS:
COUNTY OF FRANKLIN)

Pamela Gillie, first being duly sworn according to law, deposes and says as follows:

1. I have personal knowledge of the facts within this affidavit.

2. I am a Plaintiff in this case.

3. In May, 2012, I received a debt collection letter through the mail, a true and accurate copy of which is attached hereto as "Exhibit A1"

4. When I opened the letter, the first thing I saw was "Mike DeWine Ohio Attorney General" and the Seal, both located at the top of the letter.

5. I thought the letter was from the Ohio Attorney General.

6. I thought Eric A. Jones, who signed the letter, was someone from the Ohio Attorney General's Office.

7. The letter did not mention who was owed the debt, it just referenced a medical claim, but I believe the debt pertained to medical services provided during my pregnancy.

8. The letter said to contact Denise Hall at Eric A. Jones Law Office to make payment arrangements.

9. The letter also had a payment coupon at the bottom asking me to return that portion with my payment, and send my payment to Law Office of Eric A. Jones, L.L.C.

10. I was confused what the Law Office of Eric A. Jones had to do with the Ohio Attorney General.

11. I was confused why the Law Office of Eric A. Jones was sending a letter from the Ohio Attorney General.

12. I immediately thought the letter might be a scam because I was being asked to send money to an attorney and a law firm I did not know instead of to the Ohio Attorney General.

13. I was then confused as to who Eric Jones was, and did not know whether or not he was with the Ohio Attorney General's Office.

14. I was confused as to who Denise Hall was, and what she had to do with the Ohio Attorney General's Office.

15. I did not know what "Outside Counsel" meant.

16. The letter said it was a communication from a debt collector, and I assumed that if the letter was not a scam, the debt collector was the Ohio Attorney General, though I was not sure.

17. I was in bankruptcy at the time I received the letter, and I was concerned that if the letter was not a scam and I did not pay the money, the Attorney General might garnish my wages.

18. I thought the Attorney General might have some special power to override my bankruptcy and somehow stop or delay my bankruptcy case.

I then contacted my attorney Jim Nobile at Nobile & Thompson to show him the letter and see if he could answer my questions.

19. Further, Affiant Sayeth Naught.

/s/Pamela Gillie
Pamela Gillie

Sworn to before me and subscribed in my presence this 31st day of January, 2014.

/s/Michael B. Zeig
Notary Public, State of Ohio

[notary seal]

Doc. 48-3 **EXHIBIT B**

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO,
EASTERN DIVISION

Case No. 2:13-CV-212
Judge: Graham
Magistrate:
Filed: February 3, 2014

Pamela Gillie, et al.,

Plaintiff,

v.

Law Office of Eric A. Jones, LLC, et al.,

Defendants.

AFFIDAVIT OF HAZEL MEADOWS

STATE OF OHIO)
) SS:
COUNTY OF FRANKLIN)

Hazel Meadows, first being duly sworn according to law, deposes and says as follows:

1. I have personal knowledge of the facts within this affidavit.

2. I am a Plaintiff in this case.

3. That I am over the age of 18.

4. I received a letter in the mail at my home, a true and accurate copy of which is attached hereto as Exhibit B1, on or around July 20, 2012.

5. When I got this letter in the mail, it was hard to tell who sent it to me.

6. At the top of the letter it showed it was from the Ohio Attorney General's Office.

7. But the envelope the letter came in said it was sent by the Law Office Wiles Boyle, Burkholder & Bringardner Co., L.P.A.

8. Though the letter said that it was in response to my request for information, I don't recall ever asking anyone for any information about this matter.

9. The letter was signed by someone named Sarah Sheriff who listed herself in the letter as "Special Counsel to the Attorney General for the State of Ohio."

10. The letter said that I owed money to the State of Ohio-University of Akron.

11. I believe this debt is for my unpaid tuition or fees to the University of Akron.

12. I attended and graduated from the University of Akron in the year 2001.

13. The letter said that it was from a debt collector.

14. Getting this letter in the mail scared me because I thought that the Ohio Attorney General might charge me with a crime for not paying what he said I owed.

15. I was confused about who was sending me this letter since both the Ohio Attorney General's Office was listed and a law firm.

16. I was very concerned and worried about this and went to see my attorney, Athena Inembolides to

see what I would have to do to avoid criminal charges or straighten this matter out without trouble.

17. Receiving this letter caused me both depression and stress.

18. I went to a mental health facility in Upper Arlington, Ohio to receive counselling for the stress and depression caused by this letter.

19. Further, Affiant Sayeth Naught.

/s/Hazel Meadows
Hazel Meadows

Sworn to before me and subscribed in my presence this 31st day of January, 2014.

/s/Eric Eastman Willison
Notary Public, State of Ohio

[notary seal]

Doc. 48-7 **EXHIBIT C2**

RETENTION AGREEMENT FOR COLLECTIONS SPECIAL COUNSEL

This Retention Agreement for Collections Special Counsel (hereinafter this "**Retention Agreement**") is entered into by and between the Ohio Attorney General (the "**Attorney General**") and [_____] (the "**Special Counsel**" as of this _____ day of _____, 2011.

RECITALS

WHEREAS, the Attorney General, pursuant to Ohio Revised Code ("**R.C.**") Section 109.08, is empowered to appoint special counsel to represent the State in civil actions, criminal prosecutions, or other proceedings in which the State is a party or directly interested; and

WHEREAS, the purpose of this Retention Agreement is to set forth the terms for the appointment and retention of special counsel who shall provide legal services to the State of Ohio, its offices, boards, departments, commissions, colleges, universities, retirement systems and political subdivisions (the "**State Clients**") relating to the collection of moneys due to the State.

NOW THEREFORE, in consideration for the mutual promises and covenants set forth herein and for other valuable consideration, the sufficiency of which is agreed to by the parties hereto, the Attorney General and Special Counsel (each individually, a "**Party**", and collectively the "**Parties**") hereby agree as follows:

Article I TERM

The appointment of Special Counsel and this Retention Agreement shall commence as of the date hereof and shall terminate on June 30, 2012, unless earlier terminated by the Attorney General, as set forth herein (the "**Termination Date**"). No services rendered by Special Counsel after the Termination Date shall be authorized or payable without an additional written agreement from the Attorney General.

Article II SERVICE

Section 1. Scope of Appointment

Special Counsel shall conduct any and all legal work assigned by the Attorney General.

Work hereunder shall be performed in a professional manner consistent with the accepted standards for practice in the legal profession including, but not limited to, the Ohio Supreme Court Rules for Government of the Bar and the Ohio Rules of Professional Conduct.

In view of the personal nature of the services to be rendered under this appointment, the Attorney General shall be the sole judge of the adequacy of those services.

Section 2. Assignment and Delegation of Work

Special Counsel may assign legal work to those individuals set forth in Special Counsel's response to the Attorney General's FY 11 Request for Qualifications (the "**RFQ Response**") and may only delegate work to other attorneys, legal professionals or firms with the advance written approval of the Attorney General.

In the event that Special Counsel delegates work to other firms, the compensation of such firms shall be a matter beyond the scope of this Retention Agreement to be negotiated in writing between Special Counsel and those firms prior to the commencement of any work by such firms, and shall be paid by Special Counsel. A copy of such compensation agreement shall be provided to the Attorney General's Director of Special Counsel in the Collections Enforcement Section (the "**Director**"). Neither any State Client nor the Attorney General shall be liable for any fees, compensation or expenses to be paid to other firms retained by Special Counsel. Special Counsel agrees to indemnify, defend, and hold harmless the Attorney General and the State of Ohio against any claim for reimbursement of fees, costs or expenses asserted by any firm retained by Special Counsel.

All firms to whom Special Counsel may delegate work under this Section must have qualifications and experience to perform the work requested and shall work under the supervision and control of Special Counsel. Although delegation may be permitted as provided herein, delegation shall not relieve Special Counsel of any responsibility or liability for the work performed hereunder. No provision of this Section shall be construed to allow Special Counsel to subcontract with, hire, or retain any law firm without the prior written consent of the Attorney General.

Section 3. Attorney-Client Relationship and Relationship of the Parties

Special Counsel is being appointed hereunder to provide legal services on behalf of the Attorney

General to one or more State Clients. Special Counsel will render services pursuant to this Retention Agreement as an independent contractor. Special Counsel, whether for purposes of applications of Ohio R.C. Chapter 102, Section 9.86 or Section 9.87, or for any other purpose, shall not be regarded as "in the employment of, or as an employee of, the Attorney General or any State Client.

In all pleadings, notices and/or correspondence created pursuant to the work being performed hereunder, Special Counsel shall indicate that such document is prepared by Special Counsel in its position as Special Counsel for the Attorney General Special Counsel shall not print business cards using the Attorney General's logo.

During the term of this appointment, Special Counsel shall be engaged by the Attorney General solely on an independent contractor basis, and Special Counsel shall therefore be responsible for all Special Counsel's business expenses, including, but not limited to, employees' wages and salaries, insurance of every type and description, and all business and personal taxes, including income and Social Security taxes and contributions for Workers' Compensation and Unemployment Compensation, if any.

Section 4. Claim Assignment

For the purposes of this Retention Agreement, a claim or an account or a record is a debt due the State of Ohio (each, a "**Claim**") Should Special Counsel receive assignment of a Claim from the Attorney General, Collections Enforcement Section, such assignment will be transferred electronically

and shall be subject to the provisions of this Retention Agreement.

Special Counsel who substantially increase the collection of their assigned Claims, while maintaining quality customer service, may be eligible to receive an increase in the number of Claims assignments made by the Attorney General. Special Counsel who are not successful may have a decrease in Claim assignments, and this Retention Agreement shall be subject to termination as provided herein.

Special Counsel agrees to abide by all policies and procedures promulgated by the Attorney General relating to collection of Claims.

Section 5. Specific Performance Measures

A personal performance review will be conducted on Counsel at the discretion of the Attorney General. Performance reviews may include, but are not limited to, the following areas: collection ratios, performance measures based on historical averages and comparisons of new and old accounts and various account types, customer service complaints, adequacy of equipment and staff support, reports, legal actions taken, status updates, and interviews. The Attorney General may communicate in writing any additional specific performance review requirements.

As a result of this review, the Attorney General may, in its sole discretion, increase or decrease Special Counsel's inventory of Claims, or terminate the Retention Agreement.

Special Counsel will be afforded an opportunity to confer with the Attorney General or his designee on any significant issues resulting from the Special

Counsel performance reviews. If requested, Special Counsel agrees to provide access to the Attorney General or his authorized agent to all documents, papers, records, and/or computer searches involving the services to be performed under the Retention Agreement, including all documents required by this Retention Agreement.

Section 6. Noteworthy Matters

Special Counsel agrees to consult, by telephone or email, with the Director of Special Counsel as soon as possible on all matters arising out of, or related to, Special Counsel's work hereunder that may be controversial, high profile, or otherwise noteworthy.

A matter is deemed noteworthy if it has the potential for drawing media attention, involves a significant change in the law or injunctive relief that would be extremely detrimental to the State, is particularly controversial, is an appeal or defense of an appeal, or involves a settlement in excess of $500,000. It is also considered noteworthy if Special Counsel is sued in any court of law where it is named as a defendant. Instances where Special Counsel is names as defendant or respondent before a court of law, an administrative agency, board or commission or any grievance commission or committee shall be considered noteworthy. These instances must be promptly reported to the Director of Special Counsel. Such reporting is a material condition of payment of special counsel fees under this agreement, and the continuance of this agreement.

Upon the filing of any pleading in a noteworthy matter, as defined herein, Special Counsel shall timely provide a time-stamped copy of such filing to the Director of Special Counsel.

Section 7. Media Statements

Neither Special Counsel nor any partner, associate, employee or any other person assisting with the work contemplated by this Retention Agreement shall publish any material, including online publications, or speak to or otherwise communicate with any representative of a television station, radio station, newspaper, magazine, website, or any other media outlet concerning the work outlined or contemplated by this Retention Agreement without first obtaining approval of the Attorney General's General Counsel and/or the Attorney General's Director of Communications. This Retention Agreement specifically excludes any right or ability on the part of Special Counsel to speak on behalf of the Attorney General to any member of the news media.

Section 8. Confidentiality/Public Records Act

Any material commissioned or gathered by Special Counsel or in Special Counsel's possession that fulfills an obligation of this Retention Agreement, including names and addresses of potential witnesses, shall be considered the property of the State of Ohio. Special Counsel agrees to adhere to Ohio's Public Records Act, R.C. Section 149.43, and maintain all public records in accordance with estate law. Special Counsel shall consult with and obtain the approval of the Chief of Collection Enforcement before responding to any public records request. Moreover, Special Counsel shall not disclose any information obtained in performing its services hereunder in violation of any state or federal law including, but not limited to, the Family Education Rights and Privacy Act ("FERPA") and/or the Health Insurance Portability and Accountability Act of 1996

("HIPAA") as the same may be amended or modified from time to time.

Special Counsel must maintain and file with the Director of Special Counsel a written policy and enforced practice for the safeguarding of a debtor's identity, including social security numbers, identification number, and other information that could be used to a debtor's disadvantage. This policy must include secure destruction of data under supervision, as well as the enforced prohibition of the unauthorized acquisition or retention of information by support staff and personnel, including social security numbers. Counsel acknowledges and understands that the Attorney General's Office and the State of Ohio will not enter into a provision designating a settlement agreement as "confidential" without express permission of the Attorney General.

Section 9. Correspondence

Except as otherwise set forth herein, all required notices and correspondence must be sent by certified or registered U.S. mail, return receipt requested, to the following addresses:

For the Attorney General:

Chief, Collections Enforcement
150 E. Gay Street, 21st Floor
Columbus, Ohio 43215
Telephone: (614) _____
Facsimile: (___) _____

For Special Counsel:

_____

_____

_____

Addresses may be changed at any time upon written notice to the other Party.

Article III Settlements

Section 1. Settlements

The Attorney General encourages negotiations or attempts to settle Claims assigned hereunder. Special Counsel understands and agrees that the initiation of litigation on behalf of the State and shall final settlements must receive the prior approval of the Attorney General. Special Counsel shall confer with the Attorney General's office, Chief of Collections Enforcement, on the waiver of interest and collection costs.

Special Counsel shall confer with the Chief of the Collections Enforcement Section or her designee early in the settlement negotiation process. Without limitation, Special Counsel agrees to confer with the Attorney General, Chief of Collections Enforcement, about the following matters when applicable:

1. Confidentiality provisions in settlement agreements
2. The Ohio Constitutions biennial limitation
3. Indemnification provisions
4. Release language
5. Naming of the State as a party

Article IV Compensation

Section 1. Limitations

Special Counsel shall be compensated only for the satisfactory performance of services provided as set forth in this Retention Agreement. Special Counsel

shall be compensated only in accordance with the express written provisions of this Retention Agreement and shall not receive reimbursement for expenses incurred in the performance of Special Counsel duties in accordance with the terms of this Retention Agreement.

Special Counsel shall not be compensated by any State Client or any other party for services performed hereunder. Special Counsel shall also not be compensated in excess of the amount expressed within this Retention Agreement.

Section 2. Compensation Fund

Pursuant to R.C. 109.08, Special Counsel will be compensated for services rendered through payment of a fee from funds collected by Special Counsel on a specific Claim, in an amount approved by the Attorney General. All moneys collected or received by Special Counsel relating to a Claim shall be forwarded to the Attorney General's Collection Enforcement Section. Upon receipt of such funds, the Attorney General shall calculate the fee payment due Special Counsel under this Retention Agreement and shall remit the same to Special Counsel, via direct deposit or electronic payment. In no event shall Special Counsel self-withhold or deduct its fees from funds received by it; fee payment shall only be made by the Attorney General.

Section 3. The Fee

A. The Formula

Any claim assigned to Special Counsel on or after the effective date of this Retention Agreement will be paid as follows:

The standard fee shall be thirty-three percent (33%) of the first Twenty-Five Thousand Dollars ($25,000) collected on any claim or account. Exceptions to the standard 33% fee are: Medicaid Estate Recovery and Medicaid Claims will be paid at twenty percent (20%); Ohio School District Tax Claims will be paid at twenty-one percent (21%); Ohio Department of Jobs and Family Services and University Claims will be paid at twenty-five percent (25%). Special Counsel will not be paid a fee on any collections resulting from any Federal or State offset program.

After the standard fee has been taken, the remaining fee will be paid on a sliding scale (see below). The Attorney General reserves the right to modify the standard fee on any new or future Claim in a writing delivered to Special Counsel.

Except as otherwise noted in Article IV, Section 3(B), the total amount paid to Special Counsel shall not exceed one-third (1/3) of the funds collected on a specific Claim.

For collection in excess of a Twenty-Five Thousand Dollars ($25,000), the fees shall be calculated as follows:

Amount of Collection	Fee Percentage (%)
$25,000.00-$99,999.99	7
$100,000.00-450,000.99	6
$451,000.00-$750,000.99	5
$751,000.00-$1,000,000.99	4
$1,000,000.00-$3,000,000.99	3
More than $3,000,000.00	2

The Attorney General will determine the payment method and schedule for compensation distributed to Special Counsel agrees to submit current bank account information and any authorizations necessary to facilitate electronic payments.

If the Retention Agreement is terminated without cause or expires, Special Counsel shall not receive a fee for collections received after the Termination Date.

B. Payment Installment Plans

If a payment plan, as defined by R.C. 131.02, has been established by Special Counsel with a debtor, fees for Special Counsel will be paid on each installment payment, so long as each payment is timely under the installment plan and the payment plan does not exceed five (5) years in length. Failure to make a timely payment under any installment plan constitutes a breach by the debtor.

Further, no payment plan established by Special Counsel shall exceed five (5) years in length without prior written approval from the Ohio Attorney General.

Article V SANCTIONS

If Special Counsel fails to perform its duties as outlined by this Retention Agreement and the Attorney General's policies and procedures, it will receive a notice in writing of non-compliance and may be subject to the following:

1. Required submission of monthly reports to the Director for review;

2. Required attendance at conferences with the Section Chief of the Collections Enforcement Section;
3. Suspension of the assignment of new Claims to Special Counsel; and/or
4. Termination of appointment and the return of all Claims assigned.

Special Counsel is required to cooperate fully with the policies and procedures outlined by the Attorney General.

Article VI OTHER TERMS AND CONDITIONS

Section 1. Equal Opportunity

In the hiring of employees for the performance of work under this Retention Agreement, Special Counsel agrees not to discriminate on the basis of race, color, religion, sex, age, national origin, military status, ancestry, disability, sexual orientation or gender identity, characteristics, or expression, against any citizen of the State of Ohio in the employment of a person qualified and available to perform the work to which this Retention Agreement relates.

Special Counsel further agrees not to discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Retention Agreement on account of race, color, religion, sex, age, national origin, military status, ancestry, disability, sexual orientation, or gender identity, characteristics or expression.

R.C. Section 125.111 requires any company doing business with the State of Ohio to maintain a written affirmative action program addressing employment

practices. The law further requires that this plan be filed annually with the Department of Administrative Services, Equal Opportunity Division, Special Counsel represents that it has a written affirmative action program and has filed a description of the affirmative action program with the Equal Opportunity Division of the Ohio Department of Administrative Services. Compliance and the liability for non-compliance with R.C. Section 125.111(B) is the sole responsibility of Special Counsel.

Section 2. Jurisdiction and Choice of law

This Retention Agreement and the rights of the Parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio. Only Ohio courts shall have jurisdiction over any action or proceeding concerning the Retention Agreement and/or performance hereunder. Special Counsel hereby irrevocably consents to jurisdiction in a court of proper jurisdiction in Franklin County, Ohio.

Section 3. Termination

A. Termination by the Parties

The Attorney General reserves the right to modify or cancel the appointment and/or terminate this Retention Agreement at any time, in its sole discretion, and without cause or duty of explanation. Special Counsel may terminate this appointment and this Retention Agreement upon thirty (30) days' written notice to the Attorney General. If there is pending litigation, termination on the part of Special Counsel shall not be effective unless Special Counsel

first obtains leave of court to terminate its representation in the matter.

B. Compensation in the Event of Termination

In the event this Retention Agreement is terminated by either Party, or is not renewed upon its expiration, Special Counsel shall be compensated pursuant to Article IV hereof for claims collected and received prior to termination or non-renewal. Special Counsel shall not be entitled to any fee for any collections made or received, or any payment made by any debtor, after termination or non-renewal even if the collection or payment is made pursuant to a payment plan established by Special Counsel.

C. Transfer of Work

If Special Counsel is removed from any Claim, case or matter, or if this Retention Agreement is terminated or is not renewed upon expiration, then Special Counsel agrees to effectuate a speedy and efficient transfer of the work and to cooperate with the Director.

Special Counsel agrees to protect the State Client's interests in any transfer of work. Final payment to Special Counsel may be withheld if Special Counsel fails to transfer all files, documents, and materials when so requested by the Attorney General.

Section 4. Campaign Finance Compliance

Special Counsel hereby certifies that neither Special Counsel nor any of Special Counsel's partners, officers, directors, or shareholders, nor the spouses of any such persons, have made contributions in excess of the limitation in R.C. Section 3517.13.

This Retention Agreement shall be immediately null and void and any amounts paid to Special Counsel shall be fully recoverable by the State of Ohio if, on or after the date Special Counsel enters into this Retention Agreement any, of the applicable parties listed above make campaign contributions to the Attorney General or to the Attorney General's campaign committee in excess of the amounts specified in R.C. Section 3517.13.

Special Counsel shall, at all times, have a completed, notarized Affidavit of Eligibility on file with the Attorney General. Failure to provide a completed, notarized Affidavit of Eligibility will result in termination of the Special Counsel appointment.

Section 5. Employment Eligibility Verification

Special Counsel shall, at all times, have a completed Form I-9, Employment Eligibility Verification, on filed with the Director. Failure to provide a completed Form I-9, Employment Eligibility Verification, will result in termination of the Special Counsel appointment and this Retention Agreement.

Section 6. Compliance with Rules of Professional Conduct

Special Counsel represents and warrants that the attorneys listed on Special Counsel's RFQ Response are currently licensed to practice in, and in good standing before the bar of, the jurisdiction or jurisdictions listed on the RFQ Response (each an "**Admission Jurisdiction**"). If, during the appointment as Special Counsel, a complaint is issued against Special Counsel or any attorney providing services pursuant to this Retention Agreement, alleging a violation of the Supreme Court

Rules for the Government of the Bar of Ohio, or the applicable rules governing the state bar in any Admission Jurisdiction, or the Ohio Rules of Professional Conduct, then Special Counsel must give timely written notice, with a copy via email, of such complaint to the Director. Such notice must include the nature of the allegations set forth in the complaint.

The Attorney General retains the right, in his sole discretion, to immediately terminate this Retention Agreement if it deems the complaint may affect Special Counsel's ability to perform the duties required herein, or such disciplinary action somehow adversely affects the Attorney General, any State Client, or the State of Ohio. The Attorney General has the discretion to wait for the disposition of the complaint.

Section 7. Conflicts of Interest and Ethics Compliance

Special Counsel represents and warrants that, as of the date of this Retention Agreement, it is not engaged in any matter that it or may be adverse to the Attorney General, the State of Ohio or any State Clients. Special Counsel agrees that if a conflict of interest, potential or otherwise, arises pursuant to Rule 1.7 of the Ohio Rules of Professional Conduct, then Special Counsel will give timely written notice to the Director. Special Counsel must request and obtain a written waiver on a form acceptable to the Attorney General prior to undertaking representation adverse to the State of Ohio, its agencies, boards, department, commissions, colleges, universities, retirement systems or political subdivisions. Special Counsel must agree to and

execute all acknowledgments and/or conditions required by the Attorney General for any conflict waiver.

Special Counsel represents, warrants and certifies that it and its partners, associates, employees, and other persons assisting with the legal work contemplated by this Retention Agreement are knowledgeable of and understand the Ohio Ethics and Conflicts of Interest laws. Special Counsel further represents, warrants, and certifies that neither Special Counsel, nor any of its partners, associates, employees or other persons assisting with the legal work contemplated by this Retention Agreement will do any act that is inconsistent with such laws.

Section 8. Insurance

Special Counsel shall maintain, or cause to be maintained at no cost or expense to the Attorney General, adequate professional liability insurance in accordance with Gov. Bar R. III §4. If Special Counsel's malpractice policy does not cover acts of theft, embezzlement and/or lost funds, then Special Counsel shall procure and maintain, during the term of this Retention Agreement, liability insurance covering such losses in a form and with limits acceptable to the Attorney General. Unless otherwise stated, such insurance shall remain in force at all times from the date hereof through the term of this Retention Agreement, with companies authorized to do business in Ohio with an A.M. Best Rating of at least "A" unless otherwise approved in writing by the Attorney General.

A certificate reflecting the continuing coverage of all such policies procured by Special Counsel in

compliance herewith shall be delivered to the Director prior to undertaking any representation under this Retention Agreement and at least thirty (30) days prior to the expiration of any policies. Such insurance shall bear an endorsement stating that the insurer agrees to notify the Attorney General not less than thirty (30) days in advance of any proposed modification or cancellation of any such policy. Special Counsel warrants that it will comply with all conditions of each policy to assure that each policy is kept in full force and effect.

Any and all insurance claims must be made on a timely basis as required in the conditions of each policy.

Section 9. Indemnification

Special Counsel agrees to indemnify and hold the Attorney General and the State of Ohio harmless and immune from any and all claims for injury or damages arising from this Retention Agreement that are attributable to Special Counsel's own actions or omissions or those of its partners, associates, officers, employees, subcontractors, suppliers, third parties utilized by Special Counsel, or joint ventures while actin under this Retention Agreement. Such claims shall include any claims made under the Fair Labor Standards Act or under any other federal or state law involving wages, overtime, or employment matters and any claims involving collection activities. Special Counsel shall bear all costs associated with defending the Attorney General and the State of Ohio against any such claims.

Section 10. Findings for Recovery

Special Counsel warrants that it is not subject to an "unresolved" finding for recovery under R.C. 9.24. If the warranty is deemed to be false, this Retention Agreement is void *ab initio*, and Special Counsel must immediately repay to the State of Ohio any funds paid under this Retention Agreement.

Section 11. Drug Free Workplace

Special Counsel agrees to comply with all applicable federal, state, and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that any and all of its employees or permitted subcontractors engaged in the work being performed hereunder do not purchase, transfer, use, or possess illegal drugs or abuse prescription drugs or alcohol in any way.

Section 12. Accounting/Financial

All payments collected by Special Counsel shall be made payable to the Ohio Treasurer of State. All payments received by Special Counsel shall be immediately forwarded to the Attorney General's Collections Enforcement Section, Lockbox #89471, 5575 Ventura Drive, Unit A, Parma, Ohio 44130. All payments received and sent to the Attorney General must have a bar code or account information. If a payment is made payable to Special Counsel, Special Counsel shall immediately negotiate and forward a check made payable to the Ohio Treasurer of State to the same address.

Special Counsel shall keep all financial records and other documents related to this Retention Agreement in a manner consistent with generally accepted accounting procedures. All records and related

documents shall be filed in a manner so that they are easily accessed and located. Special Counsel agrees to provide the Attorney General or its authorized agent with full access to examine documents, papers, and records involving the services to be performed under this Retention Agreement.

The Attorney General reserves the right to audit the financial and business records that are associated with the Attorney General's accounts and related cash receipts of Special Counsel to assure that proper reporting and remittance are submitted to the Attorney General. This audit may be performed by the Attorney General or its authorized agent, internal audit staff, independent accountants, or the Ohio Auditor of State. The expense of such audit shall be at the cost of the Attorney General unless the audit establishes grounds for termination of this Retention Agreement. In such case, the costs of the audit shall be payable to Special Counsel.

Special Counsel shall make its books and records available for inspection and audit during the period covered by this Retention Agreement and until the expiration of two (2) years after final payment under this Retention Agreement. The Attorney General shall only review and reconcile payments and fees two (2) years from the payment date. Any discrepancies in payments or fees beyond the two (2) year period will not be reviewed. Special Counsel will be responsible for costs incurred for storing and providing these records.

Section 13. Constituent Complaints

Special Counsel must conduct business in a manner that supports the Attorney General's goal of fair and equitable treatment of debtors during the collection

of debts. At a minimum, fair and equitable treatment means debt collection without harassment or verbal abuse of the debtor, or compromising the debtor's rights. The Attorney General expects Special Counsel to provide services to the public in a manner that will preserve or enhance goodwill between the public and the State of Ohio.

The Attorney General has zero tolerance for collection actions or activities that demonstrate anything less than complete respect for the rights and reasonable expectations of the public.

Special Counsel shall file and maintain with the Director of Special Counsel a written policy regarding customer service for its staff and personnel. An annual training session should be provided to its staff on customer service practices and any updated information regarding policy and procedures for the Claims assigned by the Attorney General.

Section 14. Compliance with Law

Special Counsel agrees to comply with all applicable federal, state, and local laws in the conduct of the work hereunder. Special Counsel accepts full responsibility for payment of all unemployment compensation insurance premiums, workers' compensation premiums, all income tax deductions, social security deductions, and any and all taxes or payroll deductions required for all employees engaged by Special Counsel in the performance of the work authorized and assigned. Special Counsel must furnish evidence of workers' compensation insurance coverage to the Director. In addition, Special Counsel must comply with the standards of behavior set forth

in the Truth in Lending Act, 15 USC 1601 et seq.; the Fair Credit Reporting Act, 15 USC 1681 et seq.; the Fair Debt Collection Practices Act, 15 USC 1692 et seq.; and any and all ancillary or collateral laws, regulations, and administrative laws that apply to the above.

Consistent with Article II, Section 3 of this Retention Agreement, Special Counsel agrees that no agency, employment, joint venture, or partnership has been or will be created between the parties hereto pursuant to the terms and conditions of this Retention Agreement. Special Counsel assumes all responsibility for any federal, state, municipal, or other tax liabilities, and insurance premiums which may accrue as a result of compensation received for services rendered hereunder.

Section 15. Technical Requirements

Special Counsel must have the type of equipment necessary for electronic information storage and must maintain security on this equipment, firewalls, and security processes as required by the Attorney General. Special Counsel must maintain the ability to transmit and receive electronic files and reporting and utilize standard file formats as determined by the Attorney General. Special Counsel shall maintain a disaster recovery plan to secure any information provided by the Attorney General.

At its own expense, Special Counsel shall provide all necessary computer equipment, including but not limited to scanners, terminals, printers, communication equipment, and telephone circuits needed to perform the services required by the Attorney General under this Retention Agreement and be responsible for all licensing fees, other

software costs, and other expenses related to the requirements of the Attorney General.

Special Counsel shall have secure access to the internet and must visit and use the Attorney General's extranet daily in connection with the work assigned pursuant to this Retention Agreement. Special Counsel must also access and update Client View in the notes section of each claim assigned to Special Counsel and/or provide an electronic file updating the Attorney General when working a Claim assigned by the Attorney General. All actions performed by Special Counsel must be documented on CUBS or ClientView. Special Counsel are encouraged to use Action Codes on Client View or CUBS.

Special Counsel shall be responsible for printing and mailing all letters generated during the collection process. Special Counsel is required to file the appropriate pleadings, including Notice of Appearance in each case.

Special Counsel is required to take at least five (5) hours of Continuing Legal Education (CLE) annually in the areas of collections, probate, or bankruptcy. Additional training will be provided by the Attorney General, and Special Counsel is required to attend. Special Counsel shall provide documentation of compliance with this CLE requirement.

Section 16. Declaration Regarding Material Assistance/Non-Assistance to a Terrorist Organization

Special Counsel hereby represents and warrants to the Attorney General and the State of Ohio that it has not provided any material assistance, as that

term is defined in R.C. Section 2909.33(C), to any organization identified by and included on the United States Department of State Terrorist Exclusion list and that it has truthfully answered "no" to every question on the "Declaration Regarding Material Assistance/Non-Assistance to a Terrorist Organization" (hereafter "**DMA**"). Special Counsel further represents and warrants that it has provided such to the Attorney General and the State of Ohio prior to execution of this Retention Agreement. If these representations and warranties are found to be false, this Retention Agreement is void *ab initio*, and the Special Counsel shall immediately repay to the State of Ohio any funds paid under this Retention Agreement.

Special Counsel shall, at all times, have a completed DMA on file with the Director. Failure to provide a completed DMA will result in termination of the Special Counsel appointment.

Further information regarding these forms and requirements may be found on the Ohio Homeland Security website at http://homelandsecurity.ohio.gov/dma/dma_forms.asp.

Section 17. Offshore Services

A. Executive Order Requirements

Special Counsel affirms to have read and understands Executive Order 2010-09S issued by Ohio Governor Ted Strickland and shall abide by those requirements in the performance of this Retention Agreement, and shall perform no services required under this Retention Agreement outside of the United States.

Special Counsel also affirms, understands, and agrees to immediately notify the Attorney General of any change or shift in the location(s) of services performed by Special Counsel or its subcontractors under this Retention Agreement, and no services shall be changed or shifted to a location(s) that are outside of the United States.

B. Termination, Sanction, Damages

If Special Counsel or any of its subcontractors perform services under this Retention Agreement outside of the United States, the performance of such services shall be treated as a material breach of the Retention Agreement. Neither the Client nor the Attorney General is obligated to pay and shall not pay for such services. If Special Counsel or any of its subcontractors perform any such services, Special Counsel shall immediately return to the Attorney General or Client all funds paid for those services. The Attorney General and the Client may also recover from Special Counsel all costs associated with any corrective action the Attorney General or the Client may undertake, including but not limited to an audit or a risk analysts, as a result of Special Counsel performing services outside the United States.

The Attorney General may, at any time after the breach, terminate the Retention Agreement, upon written notice to Special Counsel. The Attorney General may recover all accounting, administrative, legal and other expenses reasonably necessary for the preparation of the termination of the Retention Agreement and costs associated with the acquisition of substitute services from a third party.

If the Attorney General determines that actual and direct damages are uncertain or difficult to ascertain, the Attorney General and the Client, in the Attorney General's sale discretion may recover a payment of liquidated damages in the amount of 10% of the value of the Retention Agreement.

The Attorney General, in its sale discretion, may provide written notice to Special Counsel of a breach and permit Special Counsel to cure the breach. Such cure period shall be no longer than twenty-one (21) calendar days. During the cure period, the Attorney General and the Client may buy substitute services from a third party and recover from the Special Counsel any costs associated with acquiring those substitute services.

Notwithstanding the Attorney General permitting a period of time to cure the breach or the Special Counsel's cure of the breach, the Attorney General does not waive any of its rights and remedies provided the Attorney General in this Retention Agreement, including but not limited to recovery of funds paid for services Special Counsel performed outside of the United States, costs associated with corrective action, or liquidated damages.

Section 18. Miscellaneous

A. Counterparts

This Retention Agreement may be executed in one or more counterpart(s), each of which shall be an original and all of which shall constitute one and the same instrument.

B. Severability of Terms and Conditions

If any provision of this Retention Agreement shall be held invalid, illegal, or unenforceable in any respect, said provision shall be severed. The validity, legality and enforceability of all other provisions of this Retention Agreement shall not in any way be affected or impaired unless such severance would cause this Retention Agreement to fail of its essential purpose.

C. Waiver of Terms and Conditions

Failure to enforce or insist on compliance with any of the terms and conditions of this Retention Agreement by the Attorney General shall not constitute a waiver or relinquishment of any such term or condition of the Retention Agreement on the part of the Attorney General but the same shall remain at all times in full force and effect.

D. Entire Agreement / Integration

This Retention Agreement incorporates the Request for Qualifications for Collections Special Counsel issued March 21, 2011 (the RFQ) and Special Counsel's response to the RFQ by reference, This Agreement, including exhibits and documents incorporated by reference, constitutes the entire understanding of the Parties. Both Parties agree that there is no other understanding or agreement other than the terms expressly stated herein.

E. Amendment or Modification

No amendment or modification of this Retention Agreement shall be effective against either Party unless such amendment or modification is set forth in writing and signed by both Parties.

F. Headings

The headings herein are for reference and convenience only. They are not intended and shall not be construed to be a substantive part of this Retention Agreement or in any other way to affect the validity, construction or interpretation of any of the provisions of this Retention Agreement.

[Remainder of Page Intentionally left Blank]

The undersigned represent that they are authorized to enter into this Limited Retention Agreement. The undersigned acknowledge they have read and understand all terms set forth herein. By affixing their signatures below, the Parties evidence their intent to be bound hereto.

OHIO ATTORNEY GENERAL

By: _____

Name: _____

Title: _____

Date: _____

[SPECIAL COUNSEL]

By: _____

Name: _____

Title: _____

Date: _____

Address: _____

_____

Doc. 48-8 **EXHIBIT C3**

FISCAL YEAR 2013 RETENTION AGREEMENT COLLECTIONS SPECIAL COUNSEL Appointed by Ohio Attorney General Mike DeWine

This Retention Agreement for Special Counsel (hereinafter "Retention Agreement" or "Agreement") is entered into by and between the Ohio Attorney General and the undersigned Special Counsel, an attorney licensed to practice law in Ohio.

Article I RECITALS

Whereas, the Attorney General, pursuant to Ohio Revised Code Section 109.08, is empowered to appoint Special Counsel to represent the State in civil actions, criminal prosecutions, or other proceedings in which the State is a party or directly interested; and

Whereas, the purpose of this Retention Agreement is to set forth the rules and procedures for the appointment and retention of Special Counsel who shall provide legal services to the State of Ohio relating to the collection of public moneys due to the State.

Now therefore, in consideration for the mutual promises and covenants set forth herein and for other valuable consideration, the sufficiency of which is agreed to by the parties hereto, the Attorney General and Special Counsel (individually referred to as the "Party", collectively "the Parties") hereby agree as follows:

Article II TERM

The term of this Retention Agreement shall begin on July 1, 2012 and shall terminate on June 30, 2013, unless terminated by the Attorney General, as set forth herein, or as a result of the completion of all work for the assignment ("Termination"). No services rendered by Special Counsel after the date of Termination shall be authorized or payable without an additional agreement from the Attorney General.

Article III SERVICE

Section 1 Scope of Appointment

Special Counsel and its employees shall conduct any and all legal and collection work assigned by the Attorney General. Both Parties recognize that the appointment of Special Counsel is personal in nature and does not extend to any law firm that the Special Counsel is associated with, a partner of, or for which Special Counsel serves as "of counsel." There shall be only one Special Counsel appointed in a law firm.

Work hereunder shall be performed in a professional manner consistent with the accepted standards for practice in the legal profession including, but not limited to, the Ohio Supreme Court Rules for Government of the Bar and the Ohio Rules of Professional Conduct.

In view of the personal nature of the services to be rendered under this appointment, the Attorney General's Office or its designee shall be the sole judge of the adequacy of those services.

Section 2 Delegation of Work

Special Counsel may, only with the express written consent of the Attorney General, delegate legal work

to another attorney outside the firm with which the Special Counsel is affiliated. Such Attorney must have qualifications and experience similar to the Special Counsel and shall work under the supervision and control of the Special Counsel. Although delegation may be permitted as provided herein, delegation shall not relieve Special Counsel of any responsibility or liability for the work performed hereunder. In the event that Special Counsel delegates work to other attorneys in other firms, the compensation of attorneys shall be a matter beyond the scope of this Retention Agreement to be negotiated in writing between the Special Counsel and those attorneys prior to the commencement of any work by the firm to whom the work is delegated and shall be paid by Special Counsel. A copy of such compensation agreement shall be filed with the Director of Special Counsel in the Collections Enforcement Section.

The delegation of work described above is the only delegation permitted under this Agreement. Under no other circumstances may Special Counsel subcontract, forward, assign, or otherwise delegate work assigned by the Attorney General to any other individual or entity. All work pursuant to this Agreement shall be conducted by employees of Special Counsel's law firm.

Section 3 Attorney-Client Relationship

The Attorney General is the chief law officer of the State of Ohio and, as such, is the legal representative of the State, including its various agencies, boards, commissions, departments, colleges, universities, political subdivisions and retirement systems (collectively, the "State Clients"). Special Counsel is

being appointed hereunder to provide legal services on behalf of the Attorney General to assist in the collection of past due debt. Special Counsel will render services pursuant to this appointment as an independent contractor. No Special Counsel, whether for purpose of applications of Ohio Revised Code Chapter 102, R.C. 9.86 or 9.87 or for any other purpose, shall be regarded as in the employment of, or as an employee of, the Attorney General or the State Clients.

In all pleadings, notices and/or correspondence created pursuant to the work being performed hereunder, Special Counsel shall indicate that such document is prepared by the Special Counsel in its position as Special Counsel for the Attorney General.

During the term of this appointment, Special Counsel shall be engaged by the Attorney General solely on an independent contractor basis, and Special Counsel shall therefore be responsible for all Special Counsel's business expenses, including, but not limited to, employees' wages and salaries, insurance of every type and description, and all business and personal taxes, including income and Social Security taxes and contributions for Worker's Compensation and Unemployment Compensation, if any. Special Counsel shall not print business cards using the Attorney General's logo.

Section 4 Claim Assignment

For the purposes of this Retention Agreement, a claim or an account or a record is a debt due the State of Ohio or a political subdivision. Should Special Counsel receive assignment of a claim(s) from the Attorney General, Collections Enforcement Section, such assignments will be transferred

electronically and are subject to the provisions of this Retention Agreement.

Special Counsel that substantially increases the collections of its assigned claims, while maintaining quality customer service, may be eligible to have an increase in the number of claims assignments made by the Attorney General's Office. Special Counsel who is not successful may have a decrease in assignments or termination. Special Counsel agrees to abide by all policies and procedures promulgated by the Attorney General relating to collection of claims.

Section 5 Specific Performance Measures

A personal performance review may be conducted on all Special Counsel at the discretion of the Attorney General. Performance reviews may include, but are not limited to, the following areas: collection ratios, performance measures based on historical averages and comparisons of new and old accounts and various account types, customer service complaints, compliance with Attorney General policies, reports, legal actions taken, status updates, and interviews. The Attorney General may communicate in writing any additional specific performance review requirements.

As a result of this review, Special Counsel's inventory of claims may be increased or decreased, the Agreement terminated, or any other sanction contained in Article VII may be imposed at the sole discretion of the Attorney General.

Special Counsel will be afforded an opportunity to confer with the Attorney General's Office on any significant issues resulting from the Special Counsel

performance reviews. If requested, Special Counsel agrees to provide the Attorney General or his authorized agent access to all documents, papers, records, and/or computer searches involving the services to be performed under this Agreement, including all documents required by this Agreement.

Section 6 Noteworthy Matters

Special Counsel agrees to consult either orally or in written format, with the Director of Special Counsel in the Collections Enforcement Section as soon as possible on all matters arising out of, or related to, Special Counsel's work hereunder that may be controversial, high profile, or otherwise noteworthy.

A matter is deemed noteworthy if it has the potential for drawing media attention, involves a significant change in the law or injunctive relief that would be extremely detrimental to the State, is particularly controversial, is an appeal or defense of an appeal, or involves a settlement in excess of **$500,000**. It is considered noteworthy if Special Counsel is sued in any court of law where he/she is named or his/her firm is named as a defendant.

Upon the filing of any pleading in a noteworthy matter, as defined herein, Special Counsel shall provide a time-stamped copy of such filing to the Director of Special Counsel in the Collections Enforcement Section.

Section 7 Media Statements

The Parties agree that neither Special Counsel, nor any partner, associate, employee, or any other person assisting with the legal work contemplated by this Retention Agreement, shall publish any material, including online publications, or speak to or

otherwise communicate with any representative of a television station, radio station, newspaper, magazine, website, or any other media outlet concerning the work outlined or contemplated by this Agreement without first obtaining approval of the Section Chief of the Collections Enforcement Section and/or the Director of Communications of the Attorney General's Office. Special Counsel shall not speak on behalf of the Ohio Attorney General to any member of the news media.

Section 8 Public Records Act/Confidentiality

Special Counsel shall describe and provide all material commissioned or gathered by Special Counsel or in Special Counsel's possession that fulfills an obligation of the Appointment, including names and addresses of potential witnesses. All such material shall be considered property of the State of Ohio. Special Counsel agrees to adhere to R.C. 149.43 and maintain all public records in accordance with state law.

Special Counsel shall consult with and obtain the approval of the Chief of the Collections Enforcement Section before responding to any public records request. Moreover, Special Counsel shall not disclose any information obtained in performing its services hereunder in violation of any state or federal law, including, but not limited to, the Family Educational Rights and Privacy Act ("FERPA") and/or the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as the same may be amended or modified from time to time. Special Counsel must also submit signed FERPA and HIPAA Acknowledgments, if applicable to the scope of representation, to the Attorney General at the time of execution of this

Agreement (copies attached to and incorporated herein).

Special Counsel acknowledges its obligation to hold in confidence sensitive and confidential information provided by the Attorney General pursuant to this agreement and will agree to take reasonable security measures. Special Counsel shall not discuss or disclose any information or material obtained pursuant to its obligations under this Agreement without the prior written consent of the Attorney General. Special Counsel shall instruct in writing Special Counsel's employees to use a high degree of care to keep confidential all information concerning the State of Ohio's client data, its business, its financial affairs, the relations with its citizens and its employees, as well as any other information which may be specifically classified as confidential in writing by the Attorney General. All provisions of this Agreement relating to "confidentiality" shall remain binding upon Special Counsel at the expiration of this Agreement or in the event of termination. Special Counsel and its employees must also submit a signed Confidentiality Agreement to the Attorney General at the time of execution of this Agreement (copy attached to and incorporated herein).

Special Counsel must maintain and file with the Director of Special Counsel in the Collections Enforcement Section a written policy and enforced practice for the safeguarding of a debtor's identity, including social security numbers, identification number, and other information that could be used to debtor's disadvantage. This policy must include secure destruction of data under supervision, as well

as the enforced prohibition of the unauthorized acquisition or retention of information by support staff and personnel, including social security numbers. Counsel must submit a copy of this policy to the Attorney General at the time of execution of this Agreement. Special Counsel must also submit a signed Non-AGO Network Access User Agreement, Confidentiality Agreement (as required above), and other documents as deemed necessary by the Attorney General to safeguard the information under its guardianship, at the time of execution of this Agreement (copies attached to and incorporated herein).

Section 9 Correspondence

Any notice required under this Retention Agreement shall be made in writing and shall be accomplished by personal delivery or by United States Certified mail, return receipt requested, postage prepaid, addressed to the other Party. Such notice shall be addressed to the Section Chief of Collections Enforcement in the Attorney General's Office and mailed to 150 E. Gay St., 21st Floor, Columbus, OH 43215 or such other address as it may hereafter designate in writing. Notice to Special Counsel shall be to the person and at the address provided below by personal delivery or by United States Certified mail, return receipt requested, postage prepaid:

_____

Name

_____

Title

_____

Address

_____

City/State/Zip

Article IV Settlements

Section 1 Settlements

The Attorney General encourages negotiations or attempts to settle assigned claims. Special Counsel understands and agrees that the initiation of litigation on behalf of the State and all final settlements must receive the prior approval of the Attorney General. Special Counsel shall confer with the Attorney General's office on the waiver of interest.

Special Counsel shall confer with the Section Chief of Collections Enforcement or her designee in the Attorney General's Office early in the settlement negotiation process. Specifically, Special Counsel agrees to confer with the Attorney General's Office about the following matters when applicable:

1. Confidentiality provisions in settlement agreements
2. The Ohio Constitutions biennial limitation
3. Indemnification provisions
4. Release language
5. Naming of the State as a party

Article V COMPENSATION

Section 1 Limitations

Special Counsel shall be compensated only for the satisfactory performance of services provided as set forth in the Retention Agreement. Special Counsel shall be compensated only in accordance with the

express written provisions of this Retention Agreement and shall not receive reimbursement for expenses incurred in the performance of Special Counsel duties in accordance with the terms of this Retention Agreement.

Special Counsel shall not be compensated by another party for services performed hereunder. Special Counsel shall also not be compensated in excess of the amount expressed within this Retention Agreement.

Section 2 Compensation Fund

Pursuant to R.C. 109.08, Special Counsel will be compensated for services rendered through payment of a fee from funds collected by Special Counsel on a specific claim, in an amount approved by the Ohio Attorney General or his designee. All moneys collected or received by Special Counsel relating to a claim shall be forwarded to the Ohio Attorney General's Office. Upon receipt of such funds, Attorney General's Office shall calculate the fee payment due Special Counsel under this Agreement and shall remit the same to Special Counsel. In no event shall Special Counsel withhold or deduct its fee from funds received by it. Fee payment shall only be made by the Attorney General.

Section 3 The Fee

A. The Formula

Any assignments or accounts assigned to Special Counsel **on or after the effective date of this Retention Agreement or on or after September 12, 2007** will be paid as follows:

The standard fee shall be thirty-three percent (33%) of the first twenty five thousand dollars ($25,000) collected on any claim or account. After the standard fee has been taken, the remaining fee will be paid on a sliding scale (see below). The Attorney General reserves the right to modify the standard fee in a writing delivered to Special Counsel.

Except as otherwise noted in Article IV, Section 3(B), the total amount paid to Special Counsel shall not exceed one-third (1/3) of the funds collected on a specific claim.

For collection in excess of $25,000, the fees shall be calculated as follows:

Amount of Collection	Fee Percentage (%)
$25,000-$99,999	7
$100,000-$450,999	6
$451,000-$750,999	5
$751,000-$999,999	4
$1,000,000-$2,999,999	3
More than $3,000,000	2

Exceptions to the standard 33% fee and sliding scale are: Medicaid Estate Recovery be paid at a flat twenty percent (20%); Ohio School District Tax will be paid at a flat twenty-one percent (21%); Ohio Department of Jobs and Family Services and University Claims will be paid at a flat twenty-five percent (25%). Special Counsel will not be paid a fee on any collections resulting from any Federal or State offset program, including unclaimed funds.

The Ohio Attorney General's Office will determine the payment method and schedule for compensation distributed to Special Counsel.

Any assignments or accounts to Special Counsel which were assigned **prior to September 12, 2007** will be paid as follows:

The standard fee shall be 33% of the first thirty thousand ($30,000) collected and ten percent (10%) of any additional amounts collected on a specific claim. The exception to this fee schedule is as follows: Medicaid Estate Recovery and Medicaid cases will be paid at a flat twenty percent (20%); Ohio Department of Jobs and Family Services will be paid at a flat twenty-five per cent (25%); and University claims will be paid at a flat thirty-one percent (31%) and a flat 10% on any amounts over $35,000. Except as otherwise provided in Article IV, Section 3(B), the total amount paid to Special Counsel shall not exceed one third (1/3) of the funds collected on a specific claim.

B. Payment Installment Plans

If a payment plan, as defined by R.C. 131.02, has been established by Special Counsel with the debtor, fees for Special Counsel will be paid on each installment payment, so long as each payment is timely under the installment plan and the payment plan does not exceed five years in length. Failure to make a timely payment under any installment payment plan constitutes a breach by the debtor.

Further, no payment plan established by the Special Counsel shall exceed five years in length without prior written approval from the Chief of

the Collections Enforcement Section. If the Retention Agreement is terminated or expires, Special Counsel shall not receive a fee for collections received after the date of termination or the expiration of the Retention Agreement.

Article VI OTHER TERMS AND CONDITIONS

Section 1 Counterparts

This Retention Agreement may be executed in one or more counterparts, each of which shall be an original and all of which constitute one and the same instrument.

Section 2 Severability of Terms and Conditions

If any provision of this Retention Agreement shall be held invalid, illegal, or unenforceable in any respect, said provision shall be severed.

The validity, legality, and enforceability of all other provisions of this Retention Agreement shall not be affected or impaired unless such severance would cause this Retention Agreement to fail of its essential purpose.

Section 3 Equal Opportunity

In the hiring of employees for the performance of work under this Agreement, Special Counsel agrees not to discriminate on the basis of race, color, religion, sex, age, disability, military status, national origin, ancestry, sexual orientation or gender identity, characteristics or expression against any citizen of this state in the employment of a person qualified and available to perform the work to which this Retention Agreement relates.

Special Counsel further agrees not to discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, military status, disability, national origin, ancestry, sexual orientation or gender identity, characteristics or expression.

R.C. 125.111 requires any company doing business with the State of Ohio to maintain a written affirmative action program addressing employment practices. The law further requires that this plan be filed annually with the Department of Administrative Services, Equal Opportunity Division. Special Counsel represents that it has a written affirmative action program and has filed a description of the affirmative action plan and a progress report on its implementation with the Equal Opportunity Division of the Department of Administrative Services. Compliance, and the liability for non-compliance with R.C. 125.111(B), is the sole responsibility of Special Counsel.

Section 4 Entire Agreement/Integration

The Request for Qualifications for Collections Special Counsel, Fiscal Year 2013 ("RFQ") and Special Counsel's RFQ Responses are hereby incorporated by reference into this Retention Agreement. This Retention Agreement, including exhibits and documents incorporated by reference, constitutes the entire understanding of the Parties. In the event of a conflict between the terms of the body of this Agreement and any exhibits or between the terms of this Agreement and the RFQ or Special Counsel's response to the RFQ, the body of this Agreement will control. Both Parties agree that there

is no other understanding or agreement other than the terms expressly stated herein.

Section 5 Amendment or Modification

No amendment or modification of this Retention Agreement shall be effective against either Party unless such amendment or modification is set forth in writing and signed by both Parties.

Section 6 Waiver of Terms and Conditions

Failure to enforce or insist on compliance with any of the terms and conditions of this Retention Agreement by the Attorney General shall not constitute a waiver or relinquishment of any such term or condition of the Retention Agreement on the part of the Attorney General but the same shall remain at all times in full force and effect.

Section 7 Venue, Jurisdiction and Choice of Law

This Retention Agreement and the rights of the Parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio. Any action or proceeding arising from or concerning this Retention Agreement and/or performance hereunder shall be subject to the exclusive jurisdiction of the state and/or federal courts located in Franklin County, Ohio. Special Counsel hereby irrevocably consents to such jurisdiction and venue in Franklin County, Ohio.

Section 8 Termination

A. Termination by the Parties

The Attorney General reserves the right to modify or cancel the Appointment and/or terminate

this Retention Agreement at any time, in his sole discretion, and without cause or duty of explanation upon written notice to Special Counsel. If there is pending litigation, termination on the part of Special Counsel shall be effective when Special Counsel obtains leave of court to terminate its representation in the matter. Special Counsel must notify the Director of Special Counsel in writing of all pending litigation matters immediately upon termination.

Special Counsel may terminate the Appointment and this Retention Agreement upon thirty (30) days written notice to the Director of Special Counsel in the Collections Enforcement Section.

B. Compensation upon Termination

In the event this Retention Agreement is terminated by either Party, or is not renewed upon the expiration of its term, Special Counsel shall be compensated for claims collected and received prior to termination or non-renewal. Special Counsel shall not be entitled to any fee for any collections made or received, or any payment made by the debtor, after termination or non-renewal even if the collection or payment is made pursuant to a payment plan established by Special Counsel.

C. Transfer of Work

If Special Counsel is removed from any claim, case or matter, or if this Retention Agreement is terminated or is not renewed upon expiration, then Special Counsel agrees to effectuate a speedy and efficient transfer of the work and to cooperate with the Director of Special Counsel in the Collections Enforcement Section.

Special Counsel agrees to protect the client's interests in any transfer of work. Final payment to Special Counsel may be withheld if Special Counsel fails to transfer all files, documents, and materials when so requested by the Ohio Attorney General's Office.

Section 9 Campaign Finance Compliance

Special Counsel hereby certifies that neither Special Counsel nor any of Special Counsel's partners, officers, directors, shareholders, nor the spouses of any such person, have made contributions in excess of the limitations specified in R.C. 3517.13.

This Retention Agreement shall be immediately null and void and any amounts paid to Special Counsel shall be fully recoverable by the State of Ohio if, on or after the date Special Counsel enters into this Retention Agreement, any of the applicable parties listed above have made campaign contributions to the holder of the public office having ultimate responsibility for the award of the contract or to the public officer's campaign committee in excess of the amounts specified in R.C. 3517.13.

Special Counsel shall, at all times, have a completed Affidavit of Eligibility on file with the Ohio Attorney General's Office. Failure to provide a completed Affidavit of Eligibility may result in termination of the Special Counsel appointment.

Special Counsel shall, at all times, have a completed Form I-9, Employment Eligibility Verification on file with the Ohio Attorney General's Office, Director of Special Counsel in the Collections Enforcement Section. Failure to provide a completed Form I-9, Employment Eligibility Verification may

result in termination of the Special Counsel appointment.

Section 10 Ohio Rules of Professional Conduct

If, during the appointment as Special Counsel, a complaint is issued against Special Counsel, Special Counsel's firm, or any attorney within Special Counsel's firm alleging a violation of the Supreme Court Rules for the Government of the Bar of Ohio, or the applicable rules (especially 1.7 through 1.11) governing the state bar in which Special Counsel has been admitted, or the Rules of Professional Conduct, then Special Counsel will give written notice, 15 days from the date of the filing of the complaint to the Chief of the Collections Enforcement Section. Such notice must include the nature of the allegations set forth in the complaint.

The Attorney General retains the right, in his sole discretion, to immediately terminate this Retention Agreement if he deems the complaint may affect Special Counsel's ability to perform the duties required herein, or such disciplinary action somehow adversely affects the Attorney General, the State Client, or the State of Ohio. The Attorney General has the discretion to wait for the disposition of the complaint.

Section 11 Conflicts of Interest and Ethics Compliance

Special Counsel represents and warrants that at the date of this Agreement, it has no conflict of interest in undertaking its representation hereunder. Special Counsel agrees that if a conflict of interest, potential or otherwise, arises pursuant to Rule 1.6 and 1.7 of the Ohio Rules of Professional Conduct,

then Special Counsel will give timely written notice to the Chief of the Collections Enforcement Section at Special Counsel Waivers@OhioAttorneyGeneral.gov. Special Counsel must request and obtain a written waiver prior to undertaking representation adverse to the State of Ohio, its offices, board, departments, institutions, or political subdivisions that certify debt to the Attorney General's Office.

Special Counsel represents, warrants, and certifies that it and its partners, associates, employees, and other persons assisting with the legal work contemplated by this Retention Agreement are knowledgeable of and understand the Ohio Ethics and Conflicts of Interest laws. Special Counsel further represents, warrants, and certifies that neither Special Counsel, nor any of its partners, associates, employees, or other persons assisting with the legal work contemplated by this Retention Agreement, will do any act that is inconsistent with such laws.

Section 12 Headings

The headings herein are for reference and convenience only. They are not intended and shall not be construed to be a substantive part of this Retention Agreement or in any other way to affect the validity, construction, interpretation, or effect of any of the provisions of this Retention Agreement.

Section 13 Insurance

Special Counsel shall, at its own expense, procure and maintain, during the term of this Agreement, malpractice insurance. If Special Counsel's malpractice policy does not cover acts of theft, embezzlement and/or lost funds, then Special

Counsel shall procure and maintain, during the term of this Retention Agreement, liability insurance covering such losses in a form and with limits acceptable to the Attorney General. Such liability insurance shall be written by a company or companies authorized to engage in the business of general liability insurance in the State of Ohio with an A.M. Best rating of at least "A" or be otherwise approved in writing by the Attorney General. A certificate reflecting the continuing coverage of all such policies procured by Special Counsel in compliance herewith shall be delivered to the Director of Special Counsel in the Collections Enforcement Section prior to undertaking any representation under this Retention Agreement and for at least thirty (30) days prior to the expiration of any policies. Such insurance shall bear an endorsement stating that the insurer agrees to notify the Chief of the Collections Enforcement Section not less than thirty (30) days in advance of any proposed modification or cancellation of any such policy. Special Counsel agrees to carry adequate professional liability insurance, and otherwise comply with Gov. Bar R. III §4.

Section 14 Indemnification

Special Counsel agrees to indemnify and to hold the Attorney General and the State of Ohio harmless and immune from any and all claims for injury or damages arising from this Retention Agreement that are attributable to Special Counsel's own actions or omissions or those of his/her partners, associates, officers, employees, subcontractors, suppliers, third parties utilized by Special Counsel, or joint ventures while acting under this Retention Agreement. Such

claims shall include any claims made under the Fair Labor Standards Act or under any other federal or state law involving wages, overtime, or employment matters and any claims involving collection activities. Special Counsel shall bear all costs associated with defending the Attorney General and/or any State Client against any such claims.

Section 15 Findings for Recovery

Special Counsel warrants that he/she is not subject to an "unresolved" finding for recovery under R.C. 9.24. If the warranty is deemed to be false, this Agreement is void *ab initio,* and Special Counsel may be required to immediately repay to the State any funds paid under this Retention Agreement.

Section 16 Drug Free Workplace

Special Counsel agrees to comply with all applicable federal, state, and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that any and all of its employees or permitted subcontractors engaged in the work being performed hereunder do not purchase, transfer, use, or possess illegal drugs or abuse prescription drugs or alcohol in any way.

Section 17 Accounting/Financial

All payments collected by Special Counsel shall be made payable to the Ohio Treasurer of State. **Restrictively endorsed payments and/or payments accompanied by documents that contain restrictive endorsement language shall be immediately forwarded to the Collections Enforcement Section at 150 E. Gay St., 21st Floor, Columbus, OH 43215.** All other payments received by Special Counsel, including those made

payable to Special Counsel, shall be immediately forwarded to the Collections Enforcement Lock Box.

Special Counsel shall keep all financial records and other documents related to this Retention Agreement in a manner consistent with generally accepted accounting principles and Attorney General policies. All records and related documents shall be filed in a manner so that they are easily accessed and located. Special Counsel agrees to provide the Ohio Attorney General or his authorized agent with full access to examine documents, papers, and records involving the services to be performed under this Retention Agreement.

The Attorney General's Office reserves the right to audit the financial and business records that are associated with the Attorney General's Office accounts and related cash receipts of Special Counsel to assure that proper reporting and remittance are submitted to the Attorney General's Office. This audit may be performed by the Ohio Attorney General or his authorized agent, internal audit staff, independent accountants, or the Ohio Auditor of State. The expense of such audit shall be at the cost of the Attorney General's Office unless the audit establishes grounds for termination of the contract. In such case, the costs of the audit shall be payable by Special Counsel.

Special Counsel shall make its books and records available for inspection and audit during the period covered by this Retention Agreement and until the expiration of two (2) years after final payment under the Retention Agreement. Special Counsel will be responsible for costs incurred for storing and providing these records.

Section 18 Constituent Complaints

Special Counsel must conduct business in a manner that supports the Ohio Attorney General's goal of fair and equitable treatment of debtors during the collection of debts. At a minimum, fair and equitable treatment means debt collection without harassment or verbal abuse of the debtor, or compromising the debtor's rights. The Attorney General expects Special Counsel to provide services to the public in a manner that will preserve or enhance goodwill between the public and the State of Ohio.

The Attorney General's Office has zero tolerance for collection actions or activities that demonstrate anything less than complete respect for the rights and reasonable expectations of the public.

Special Counsel shall file and maintain with the Director of Special Counsel in the Collections Enforcement Section a written policy regarding customer service for his/her staff and personnel. An annual training session should be provided to his/her staff on customer service practices and any updated information regarding policy and procedures for the accounts assigned by the Attorney General's Office.

Section 19 Compliance with Law

Special Counsel agrees to comply with all applicable federal, state, and local laws in the conduct of the work hereunder. Special Counsel accepts full responsibility for payment of all unemployment compensation insurance premiums, workers' compensation premiums, all income tax deductions, social security deductions, and any and

all taxes or payroll deductions required for all employees engaged by Special Counsel in the performance of the work authorized and assigned. Special Counsel must furnish evidence of workers' compensation insurance coverage to the Director of Special Counsel in the Collections Enforcement Section. In addition, Special Counsel must comply with the same standards of behavior as set forth in the Truth in Lending Act, 15 USC 1601 et seq.; the Fair Credit Reporting Act, 15 USC 1681 et seq.; and the Fair Debt Collection Practices Act, 15 USC 1692 et seq.; and any and all ancillary or collateral laws, regulations or administrative laws that apply to the above. Failure to comply with this provision will result in sanctions allowed by law and in this Agreement.

Consistent with Article III, Section 3 of this Agreement, Special Counsel agrees that no agency, employment, joint venture, or partnership has been or will be created between the Parties hereto pursuant to the terms and conditions of this Retention Agreement. Special Counsel assumes all responsibility for any federal, state, municipal, or other tax liabilities, and insurance premiums which may accrue as a result of compensation received for services rendered hereunder.

Section 20 Technical Requirements

Special Counsel must have the type of equipment necessary for electronic information storage, including a separate server to store Attorney General records, and maintain security on this equipment, firewalls and security processes as required by the Attorney General's Office. Special Counsel must maintain the ability to transmit and receive

electronic files and reporting and utilize standard file formats as determined by the Attorney General's Office.

At its own expense, Special Counsel shall provide all necessary computer equipment, including but not limited to scanners, terminals, printers, communication equipment, and telephone circuits needed to perform the services required by the Attorney General's Office under this Agreement and be responsible for all licensing fees, other software costs, and other expenses related to the requirements of the Attorney General's Office.

Special Counsel shall have secure access to the internet and must visit and use the Attorney General's Extranet daily in connection with the work assigned pursuant to this Retention Agreement. Special Counsel must also access and update Client View in the notes section of each account assigned to Special Counsel and/or provide an electronic file updating the Attorney General when working an account assigned from the Attorney General. All actions performed by Special Counsel must be documented on CUBS, the Attorney General collection system, and/or Client View. Special Counsel shall use Action Codes on Client View, CUBS, and/or the Attorney General collection system.

Special Counsel shall be responsible for printing and mailing all letters generated during the collection process. Special Counsel is required to file the appropriate pleadings, including Notice of Appearance in each case.

Special Counsel is required to complete at least 5 hours of Continuing Legal Education annually in the

areas of collections, probate, or bankruptcy. Additional training will be provided by the Attorney General, and Special Counsel is required to attend.

Section 21 Declaration Regarding Material Assistance/Non-Assistance to a Terrorist Organization

Special Counsel hereby represents and warrants to the Attorney General and the State of Ohio that it has not provided any material assistance, as that term is defined in R.C. 2909.33(C), to any organization identified by and included on the United States Department of State Terrorist Exclusion list and that it has truthfully answered "no" to every question on the "Declaration Regarding Material Assistance/Non-assistance to a Terrorist Organization." Special Counsel further represents and warrants that it has provided or will provide such declaration to the Attorney General and the State of Ohio prior to execution of this Retention Agreement. If these representations and warranties are found to be false, this Retention Agreement is void *ab initio* and the Special Counsel shall immediately repay to the Attorney General or the State of Ohio any funds paid under this Retention Agreement.

Special Counsel shall, at all times, have a completed Declaration Regarding Material Assistance/Non-Assistance to a Terrorist Organization form on file with the Director of Special Counsel in the Collections Enforcement Section. Failure to provide a completed Declaration Regarding Material Assistance/Non-Assistance to a Terrorist Organization form will result in termination of the Special Counsel appointment.

Further information regarding these forms and requirements may be found on the website at: http://www.homelandsecurity.ohio.gov/dma.asp.

Section 22 Ohio Retirement System Retirant

If Special Counsel is a PERS retirant, as such term is defined by R.C. 145.38, Special Counsel shall notify the Attorney General of such status in writing prior to the commencement of work under this Agreement. Notices pursuant to this Paragraph shall be sent to the Attorney General's Director of Human Resources by mail at 30 E. Broad Street, 16th Floor, Columbus, Ohio 43215, by fax at (614) 728-7582, or by email at HR@OhioAttorneyGeneral.gov. The Attorney General shall not be responsible for any changes to Special Counsel's retirement benefits that may result from entering into this Agreement.

Article VII SANCTIONS

Special Counsel is required to cooperate fully with the policies and procedures outlined by the Attorney General's Office, specifically the Collections Enforcement Section. Failure to perform any of the duties as outlined by this Retention Agreement and the Ohio Attorney General's Office's policies and procedures will result in the issuance of a notice in writing of non-compliance and may be subject to sanction, including but not limited to the following:

1. Submission of monthly reports to the Director of Special Counsel in the Collections Enforcement Section for review;

2. Attendance at required conferences with the Section Chief of the Collections

Enforcement Section and/or General Counsel;

3. Suspension of new assignments to Special Counsel; and/or

4. Termination of appointment and the return of all accounts assigned.

ARTICLE VIII SAFEGUARDING CONTRACT LANGUAGE

Section 1 Performance

In performance of this Agreement, Special Counsel, as a contractor of the Ohio Attorney General, agrees to comply with and assume responsibility for compliance by his/her employees with the following requirements:

(1) All work will be performed under the supervision of Special Counsel or Special Counsel's responsible employees.

(2) Any Federal tax returns or return information (hereafter referred to as returns or return information) made available shall be used only for the purpose of carrying out the provisions of this Agreement. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Agreement. Inspection by or disclosure to anyone other than the Special Counsel or employee of the Special Counsel is prohibited.

(3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all

related output and products will be given the same level of protection as required for the source material.

(4) No work involving returns and return information furnished under this Agreement will be subcontracted without prior written approval of the Attorney General and the IRS.

(5) Special Counsel will maintain a list of employees authorized access. Such list will be provided to the Attorney General's Office and, upon request, to the IRS reviewing office.

(6) Incident response policy and procedures must be developed, documented, disseminated, and updated as necessary to facilitate the implementing incident response security controls.

(7) Audit and accountability policy and procedures must be developed, documented, disseminated, and updated as necessary to facilitate implementing audit and accountability security controls.

a. To support the audit of activities, all Special Counsel must ensure that audit information is archived for six years.
b. The information system must protect audit information and audit tools from unauthorized access, modification, and deletion.

(8) The Attorney General will have the right to void this Agreement if Special Counsel fails to provide the safeguards described above, or any other safeguard required under *Publication 1075: Tax Information Security Guidelines For Federal, State and Local Agencies*).

Section 2 Criminal/Civil Sanctions

(1) Each employee of Special Counsel to whom returns or return information is or may be disclosed

shall be notified in writing by Special Counsel that returns or return information disclosed to such Special Counsel or employee can be used only for the purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as $5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Special Counsel shall also notify each such employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the Special Counsel and employee in an amount not less than $1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC Sections 7213 and 7431and set forth at 26 CFR 301.6103(n)-1.

(2) Each employee of any Special Counsel to whom returns or return information is or may be disclosed shall be notified in writing by such Special Counsel that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Agreement. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Agreement. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as $1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Special Counsel shall also notify each such employee that any such unauthorized

inspection or disclosure of returns or return information may also result in an award of civil damages against the employee in an amount equal to the sum of the greater of $1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRC Sections 7213A and 7431.

(3) Additionally, it is incumbent upon Special Counsel to inform his/her employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to Special Counsel as contractors of the Ohio Attorney General by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(4) Granting Special Counsel access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Special Counsel must maintain his/her authorization to

access FTI through annual recertification. The initial certification and recertification must be documented and placed in the Attorney General's files for review. As part of the certification and at least annually afterwards, Special Counsel and Special Counsel's employees should be advised of the provisions of IRC Sections 7431, 7213, and 7213A (see Exhibit 6, *IRC Sec. 7431 Civil Damages for Unauthorized Disclosure of Returns and Return Information and* Exhibit 5, *IRC Sec. 7213 Unauthorized Disclosure of Information*). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (*See* Section 10 of *Publication 1075: Tax Information Security Guidelines For Federal, State and Local Agencies*) For both the initial certification and the annual certification, Special Counsel and Special Counsel's employees should sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

Section 3 Inspection

Special Counsel shall comply with the requirements of the IRS Publication 1075, including all requirements referencing or related to, record retention and audit requirements to safeguard FTI.

The IRS and the Attorney General's Office shall have the right to send its officers and employees into the offices and plants of Special Counsel for inspection of the facilities and operations provided for the performance of any work under this Agreement. This will include alternate worksites where FTI is received, processed, stored, destroyed,

or has been handled by any other means; this provision specifically includes private property held by the contractor if it allows its employees to establish an alternate work site within their property. On the basis of such inspection, specific measures may be required in cases where Special Counsel is found to be noncompliant with contract safeguards. On the basis of such inspection, specific measures may be required to remedy matters of non-compliance, in cases where the Special Counsel is found to be noncompliant with Retention Agreement safeguards or measures as defined by the IRS Office of Safeguards or the Attorney General's Office.

A background check must be performed, as required by IRS Publication 1075, on each of Special Counsel's employees or subcontractors that may be exposed to records provided by the Attorney General's Office. Results of the background checks shall be made available to the Attorney General, IRS or their designees upon request.

Special Counsel must provide staff, logs, records, systems access, and access to the facilities at its own expense to assist during each of the inspection/audits. Inspections/Audits may be performed by the Attorney General's Office, IRS or their designee at any time the Special Counsel is in possession of FTI or during the subsequent years until all FTI has been return or destroyed, the return or destruction have been reported to the Attorney General's Office, and the retention periods for these records as defined in IRS publication 1075 have expired.

The undersigned represent they are authorized to enter into this Retention Agreement

numbering eighteen (18) pages. The undersigned acknowledge they have read and understand all terms set forth herein. By affixing their signatures below, the parties evidence their intent to be bound hereto.

THE OHIO ATTORNEY GENERAL

_____

BY

_____

TITLE

_____

DATE

SPECIAL COUNSEL

_____

SIGNATURE OF APPOINTED ATTORNEY

_____

PRINTED NAME OF APPOINTED ATTORNEY

_____

DATE

_____

ADDRESS

_____

CITY/STATE/ZIP

****To be in compliance with the 45 day notice period under IRS's 1075 requirements and 26 USC 6103, certain tax accounts assigned prior to August 13, 2012, are considered to be part of the FY 12 retention

agreement which is extended for this limited purpose. Said extension for this limited purpose expires August 14, 2012.

Doc. 48-11 **EXHIBIT C6**

[Letterhead of
Law Office of Eric A. Jones, LLC]

May 2, 2012

Mike DeWine
Ohio Attorney General's Office
Collections Enforcement Section
150 E. Gay Street, 21st Floor
Columbus, Ohio 43215

RE: Eric A. Jones
Fiscal Year 2012 Request for Qualifications for Special Counsel
Fiscal Year 2013

Dear Mr. DeWine:

I am pleased to have the opportunity to be considered for Collections Special Counsel for the Ohio Attorney General and my response to the April 13, 2012 Request for Qualifications for Special Counsel for Fiscal Year 2013 (RFQ) is enclosed. I own and operate the Law Office of Eric A. Jones, LLC located in downtown Columbus, Ohio. I and my staff have in depth knowledge and extensive experience in all aspects of collection law including general collections, securing judgments and post-judgment enforcement for State Clients and private sector clients. I have a staff of five attorneys, all of whom work under my direct supervision and are experienced with all aspects of debt collection, that enable me to handle a high volume of accounts throughout the state of Ohio.

I have served as Collections Special Counsel since 2007. During this time, I have collected millions of dollars owed to the State of Ohio. I have the ability and am accustomed to electronically receiving and sending data to our clients via the Columbia Ultimate Business Solutions (C.U.B.S.) system and can generate collection activity and statistical reports according to your specifications. I also have a document tracking and imaging system in place to ensure that any information entrusted to me confidential and safeguarded. I am accustomed to working all accounts assigned to me promptly and will continue to do so.

My office has developed an effective and efficient process for collecting accounts that has proven to be successful. Upon receipt of new accounts, we promptly load all account data into our collections system, which is on a secure server dedicated to our collections operation. This data is refreshed on a daily basis to ensure we have the most current data from the Ohio Attorney General in conducting our work. We have the capability to send notices to debtors within twenty-four hours of receiving the accounts. In addition to mailing notices to debtors, we utilize IAT SmartDial Solutions to automate our phone calls for maximum efficiency. Finally, we have a group of well trained, experienced, and professional collectors who directly contact debtors by using the most effective skip tracing tools available.

I will uphold the integrity and reputation of the Ohio Attorney General's office. All of my staff and I adhere to a strict code of ethics and strictly follow the Fair Debt Collection Practices Act and other state and federal requirements. We regularly attend

continuing education seminars to stay current on all debt collection regulations. Our staff is trained to be professional, respectful and straight-forward allowing us to effectively work with debtors, which simplifies the debt recovery process with the maximum outcome.

I am committed to providing timely and effective client service to the Ohio Attorney General and I am very confident that I and my team are exceptionally qualified and we have all of the resources necessary to achieve excellent results for the State of Ohio. I affirm that all statements contained in the RFQ response and attachments are true and accurate. Thank you for your consideration. If you have any questions or require any additional information please call me directly at (614) 545-9998.

Respectfully yours,

/s/Eric A. Jones
Eric A. Jones, J.D., M.B.A.
Law Office of Eric A. Jones, LLC
580 S. High Street, Suite 100
Columbus, Ohio 43215
(614) 545-9998
Fax (614) 224-9300
ejones@ericjoneslaw.com

[Letterhead of Mike DeWine
Ohio Attorney General]

Ohio Attorney General's Office
Request for Qualifications for
Collections Special Counsel

Fiscal Year 2013

Date Issued: Friday, April 13, 2012

Deadline for Questions: 5:00 PM, Friday, April 20, 2012

Responses Due: 5:00 PM, Friday, May 4, 2012

Submit Responses Electronically to:
CollectionsCounsel@OhioAttorneyGeneral.gov

Direct Specific Questions regarding this RFQ to:
CollectionsCounsel@OhioAttorneyGeneral.gov

Submitted By:
Eric A. Jones, J.D., M.B.A.
Law Office of Eric A. Jones, LLC
580 S. High Street, Suite 100
Columbus, Ohio 43215
(614)545-9998
ejones@ericjoneslaw.com

Section 1: Overview & Scope of Services

Thank you for your interest in serving the Ohio Attorney General (the "Attorney General") and the State of Ohio as a Collection Special Counsel. The Attorney General serves as legal counsel and the collector of past due debt for Ohio's various state agencies, boards, departments, commissions, colleges, universities, political subdivisions and retirement systems (collectively, the "State Clients").

Counsel wishing to be considered for appointment as Collections Special Counsel for a term commencing July 1, 2012 through June 30, 2013 ("FY13") must be registered with the Attorney General through the completion and submission of a response to this Request for Qualifications ("RFQ").

The Attorney General seeks responses from attorneys interested in representing the Clients in the collection and litigation of outstanding state debts and obligations. Attorneys with an interest and expertise in all aspects of collection work are sought. In particular, the Attorney General seeks attorneys with experience in general collections, the securing of judgments, and post-judgment enforcement, along with those who have experience representing creditors in bankruptcy matters. The work will include general collection work and related litigation.

The Attorney General expects all counsel wishing to be considered for an appointment to have in-depth knowledge, experience and expertise in the practice areas for which a Collections Special Counsel appointment is sought. Please clearly communicate your and your firm's knowledge and expertise by emphasizing your experience, reputation and ability to perform the work requested.

Collections Special Counsel must have a document tracking system in place to ensure that information entrusted to you is not misused, and that confidential information is safeguarded. It is the expectation of the Attorney General that you will work all accounts assigned to you promptly, and obtain advance approval for any remedies that may shut down an Ohio business, foreclose on any commercial business, or result in a residential foreclosure.

Collections Special Counsel and staff must be familiar with the ethics statutes governing state employees and appointees, including those concerning employment of former government employees, gifts and lobbying. You must make sure that all financial obligations you or your employees have to the State of Ohio are promptly paid and resolved. You must maintain workers' compensation coverage on yourself and your employees.

Collections Special Counsel may, only with the express written consent of the Attorney General, delegate legal work to another attorney outside the firm with which the special counsel is affiliated. This is the only delegation of work permitted. Under no circumstances may Special Counsel subcontract, forward, assign, or otherwise delegate work assigned by the Attorney General to any other individual or entity. All work shall be conducted by employees of Special Counsel's law firm.

Collections Special Counsel must report their work on a regular basis, and must ensure that their notes and collection actions can be uploaded to the computer system utilized by the Attorney General. This includes the Columbia Ultimate Bookkeeping System ("CUBS") for FY13 but may also include

other collection systems used by the Attorney General or Clients currently or in the future.

Collections Special Counsel must promptly respond to inquiries from the Attorney General's office and the Clients. Collections Special Counsel must commit to fair debt collection practices, and must report matters that may be controversial, have media interest, involve elected officials, or otherwise could be considered sensitive or delicate to the Director of Special Counsel at Traci.Saliba@OhioAttorneyGeneral.gov.

Collections Special Counsel must be committed to providing timely and effective client service and must continue their education, and those of their staff, by completing relevant professional training as required by the Attorney General.

Collections Special Counsel must carefully screen matters assigned to you for potential conflicts of interest, and promptly report any potential problems to the Director of Special Counsel at Traci.Saliba@OhioAttorneyGeneral.gov. You must segregate state accounts and develop and maintain a system to assure the confidentiality of state accounts and client information, using such information only for the purpose of collecting state debt.

As Collections Special Counsel, you must relinquish accounts when requested to do so by the Attorney General.

Section 2: Retention Agreement

If you are selected as Collections Special Counsel, your relationship to the Attorney General will be defined by contract, and neither you nor your firm's staff will be considered to be employees of the

Attorney General or any Client. You will be considered an independent contractor subject to the rules, regulations and laws of the State of Ohio including, those governing fair debt collection, any applicable Federal laws, and the Rules of Professional Conduct governing attorneys.

The Retention Agreement to be awarded pursuant to this RFQ is **attached as Exhibit A**. If chosen, Special Counsel must be willing to sign and comply with all terms and conditions of the Retention Agreement. No variations or exceptions to the terms and conditions in the Retention Agreement will be accepted. The RFQ and Special Counsel's RFQ Response will be incorporated into the Retention Agreement. The Retention Agreement is provided for information purposes only. **Do not sign a copy of the Retention Agreement or submit with your RFQ response.**

A Retention Agreement awarded pursuant to this RFQ shall be subject to Ohio Revised Code Section 126.07. Accordingly, no rights, duties, or obligations under such a Retention Agreement shall be binding on the Attorney General until such time as all necessary funds are available or encumbered and, when required, such expenditures of funds is approved by the Controlling Board of the State of Ohio.

Collection work is principally compensated on a percentage basis, according to schedules that will become part of your contract with the Attorney General.

Section 3: RFQ Submission and Related Information

To be eligible for an appointment as Collections Special Counsel for FY13, you must complete a response to this RFQ (an "RFQ Response"), even if you are presently serving as Special Counsel under a fiscal year 2012 appointment. Completion of an RFQ Response does not automatically ensure that you will receive a FY13 Collections Special Counsel appointment.

Your FY13 RFQ Response, including all attachments, must be sent via email to: CollectionsCounsel@OhioAttorneyGeneral.gov no later than 5:00 PM on Friday, May 4, 2012 (the "Deadline").

Responses received in hard copy or by facsimile or received after the Deadline may be considered nonresponsive.

Please direct any specific questions regarding this RFQ to: CollectionsCounsel@OhioAttorneyGeneral.gov Questions must be submitted by Friday, April 20, 2012 at 5:00 PM. All questions and responses will be posted. Responses to all questions received will be posted on the Attorney General's website (www.OhioAttorneyGeneral.gov/CollectionsForms.) on April 24, 2012. An additional 24-hour period will be opened to allow an opportunity to submit Requests for Clarification of the posted responses. Requests for Clarification must be submitted to CollectionsCounsel@OhioAttorneyGeneral.gov and will only be accepted until 5:00 PM on April 25, 2012. No new questions will be entertained during this period. Responses to Requests for Clarification will

be posted on April 26, 2012. No new responses will be posted after April 26, 2012.

By submitting your RFQ Response, you agree that the Attorney General may copy any documents and information that you may provide for purposes of facilitating its evaluation or to respond to requests for public records. Further, you consent to such copying and warrant and represent that such copying will not violate the rights of any third party. The Attorney General will have the right to use any ideas or adaptations of ideas that are represented in the responses. All responses become the property of the Attorney General and will not be returned to you. All information and materials that you submit may be treated as a public record pursuant to Ohio Revised Code Section 149.43.

The Attorney General reserves the right to amend this RFQ at any time. Notice of amendments will be posted to the Attorney General's website. The Attorney General reserves the right to waive or permit cure of nonmaterial variances in an RFQ response; however, any such waiver will be based on the Attorney General's or any Client's best interest as determined by the Attorney General.

The Attorney General reserves the right to reject any or all RFQ Responses in its discretion in whole or in part, to advertise for new responses, to abandon the need for such services, and to cancel this RFQ if it is deemed to be in the best interest of the Attorney General or any Client.

Nothing in this RFQ or any communication between the Attorney General and any respondent shall be deemed to grant any respondent a right to appointment as Collections Special Counsel.

Appointment as Collections Special Counsel and compensation shall only become effective upon execution of a Retention Agreement, and appointment in accordance with Ohio Revised Code Section 109.07 and the established procedures of the Attorney General.

This RFQ is to be construed in light of pertinent legal requirements of the State of Ohio. Changes in applicable laws and rules may affect the selection process or the resulting Retention Agreement. It is your responsibility to ascertain pertinent legal requirements and restrictions.

By submitting an RFQ Response, you agree that you will not bring any claim or seek any cause of action against the Attorney General or the State of Ohio based on any misunderstanding concerning the information provided in this RFQ or any response, or lack thereof, to an inquiry relating to this RFQ and the selection process.

The Attorney General will not reimburse any expenses incurred by you in submitting this RFQ, including any expenses associated with an interview at the Attorney General's offices in Columbus, Ohio, should the Attorney General determine that such an interview is necessary in evaluating your qualifications.

Nothing in this RFQ is intended to limit or constrain the discretion of the Attorney General in exercising any of his authority, duties, prerogatives, or powers established or recognized in the Constitution, statutes, Executive Orders, regulations, case law, common law, or contract. The Attorney General may hire special counsel outside of this RFQ process if

deemed appropriate, in his sole discretion, for the benefit of the State and the Clients.

Section 4: Required Components for Your RFQ Response

All documentation must be provided electronically, with your RFQ response to: CollectionsCounsel@OhioAttorneyGeneral.gov

Responses received in hard copy or by facsimile will be considered non-responsive.

- Your RFQ Response should be prepared simply and economically providing a direct, concise delineation of your experience and qualifications. Your response must meet the criteria set forth in all sections of this RFQ.
- Responses must be no smaller than 12 point font and are limited to 35 pages. Please note required documentation does not count towards the page limit restriction.
- All pages of the response must have consecutive page numbers.
- Responses must be submitted in PDF format. (Please note that the OH SPR must be submitted in Word format.)
- Applicants must restate the section numbers and the text of the requirement in the same sequence as this RFQ.
- Responses should be provided immediately after the restated requirement.
- Should you also submit an OH SPR, the OH SPR and its attachments are not subject to the above submission requirements.

Submission guidelines for the OH SPR are located on the first page of the OH SPR. Where there is an overlap of information requested in the RFQ and the OH SPR, you must provide the information in both places.

A. Required Documentation (available on our web site at:
www.OhioAttorneyGeneral.gov/CollectionsForms.

- o Cover Letter – Not to exceed two pages. Shall affirm that all statements are true and accurate. Should clearly communicate your knowledge, experience and ability to perform the work requested. Shall include the signer's mailing address, telephone number, fax number and e-mail address.
- o Affidavit of Eligibility (Attachment 1)
- o Declaration of Material Assistance (Attachment 2)
- o Vendor ID & W-9 forms (Attachment 3)
- o Firm Demographics Form (Attachment 4)
- o Current Bureau of Workers' Compensation certificate (Attachment 5)
- o Affirmative Action Plan Verification Form with the Ohio Department of Administrative Services (Attachment 6)

B. Certifications Required

You must provide the following certifications to be considered for appointment as a Collections Special Counsel.

1. A copy of your current professional liability insurance demonstrating coverage by a company authorized to do business in Ohio with a Best rating of at least "A" (Include as an attachment to your response).

RESPONSE:

A true and accurate copy of our current professional liability insurance is attached as Attachment 7. (*Please note that I have included a copy of the policy renewed May 12, 2012 and a copy of the current policy that expires May 12, 2012.*)

2. Ethics and Malpractice Certification that:

   a. No ethics complaints have been filed against you or your law firm within the last five (5) years that did not result in dismissal.

   RESPONSE:

   I hereby certify that no ethics complaints have ever been filed against me or my law firm.

   b. No legal malpractice actions are pending or have been adversely decided against you or your law firm within the last five (5) years.

   RESPONSE:

   I hereby certify that no malpractice actions are pending or have ever been adversely decided against me or my law firm.

If such complaints or actions have occurred, please provide an explanation of facts and outcome.

No response required.

3. Certification that each attorney in your firm who would be involved with claims and cases assigned to you as Collections Special Counsel is a member in good standing of the Ohio bar, federal bar and/or state bar in which he or she has been admitted to the

practice of law (please identify other states), and has not been disqualified to practice law in any jurisdiction or forum.

RESPONSE:

I hereby certify that I and each attorney associated with the Law Office of Eric A. Jones, LLC is a member in good standing of the Ohio bar, federal bar and/or state bar in which he or she has been admitted to the practice of law, and has not been disqualified to practice law in any jurisdiction or forum.

True and accurate Certifications from the Supreme Court of Ohio and the West Virginia State Bar are attached as Attachment 8.

4. Certification that each attorney in your firm who would be involved with claims and cases assigned to you as Collections Special Counsel is not subject to an "unresolved" finding for recovery under R.C. 9.24. If the warranty is deemed to be false, the Retention Agreement will be deemed void ab initio, and Special Counsel may be required to repay to the State of Ohio any funds paid under the Retention Agreement.

RESPONSE:

I hereby certify that each attorney associated with the Law Office of Eric A. Jones, LLC is not subject to an "unresolved" finding for recovery under R.C. 9.24.

C. Disclosure of Conflict of Interest and other Collection Matters

1. A list and explanation of any claims and lawsuits brought against any member of your firm, including any attorney or employee, alleging a violation of the Fair Debt Collection Practices Act within the last five (5) years.

RESPONSE:

Chris J. Tolbert v. Law office of Eric A. Jones, LLC
Case No. 2009 CVI 026100
Status – Judgment in Favor of Defendant

A claim was filed in Franklin County Municipal Small Claims Court on June 15, 2009, alleging a violation of the Fair Debt Collection Practices Act. The basis of the allegation was that Mr. Tolbert claimed he received a letter from the Law Office of Eric A. Jones, LLC regarding an outstanding debt subsequent to him requesting verification of the debt. Judgment was entered in favor of Eric A. Jones finding that there were absolutely no violations of the Fair Debt Collection Practices Act and the claims was wholly without merit.

Elay Lewis, Sr. v. Law Office of Eric A. Jones, LLC
Case No. 2011CVI01497
Status – Dismissed with Prejudice

A claim was filed in the Montgomery County Municipal Small Claims Court on December 28, 2011, alleging violations of

the Fair Debt Collection Practices Act. The basis of the allegations was that Mr. Lewis claimed he received letters and phone calls from the Law Office of Eric A. Jones, LLC regarding an outstanding debt that wasn't his. Mr. Lewis had been making payments on the debt and had previously agreed that it was his legal obligation. The court dismissed Mr. Lewis' complaint with prejudice.

2. A list and description of the systems you have in place to screen incoming accounts and claims to assure that your firm and the particular counsel who has accepted an appointment on a state collection matter does not have a conflict of interest, including representation of a private client in a matter against or competing with that of the State of Ohio.

RESPONSE:

The Law Office of Eric A. Jones, LLC takes conflict of interest very seriously. We maintain all collection matters on the Columbia Ultimate Business Solutions (C.U.B.S.) system. To screen for potential conflicts, we run a "matching report" upon each loading of new accounts into the C.U.B.S. system. The matching report algorithm searches names, SSNs, phone numbers, addresses, and clients existing in the system and identifies any newly input accounts that match existing ones. Newly input accounts that are identified as matching existing accounts are consolidated

on a matching report. The matching report is then examined to determine if any potential conflicts exist. Non-collection clients are maintained on a separate system but such clients are input into the C.U.B.S. system at least monthly to be included in the matching reports.

It is our policy to decline to represent any clients in matters against or directly competing with that of the State of Ohio. Eric A. Jones reviews all new matters to ensure that no actual or reasonably foreseeable conflicts exist with the State of Ohio prior to engaging in the representation of new clients.

It is our policy that all staff members are required to immediately report in writing any potential conflicts of interest that may be identified. Should an actual or potential conflict of interest by discovered, Eric A. Jones will notify the Deputy Director of Special Counsel that we will not be able to represent the Ohio Attorney General in particular matter(s) until any and all conflicts have been resolved.

Additionally, Eric A. Jones visually screens all incoming accounts assigned by the Attorney General on a weekly basis, via the Compass Consulting Group System to identify any accounts assigned for potential conflicts. As a final added measure, a complete listing of the firm's non-State Clients is provided to the firm's Director of Collections on at least a monthly basis to

perform conflicts checks with all accounts assigned by the Attorney General.

3. List and describe those matters where your past or present clients have an interest adverse to or competing with that of the State of Ohio.

RESPONSE:

There are no known past or present clients that have an interest adverse to or competing with that of the State of Ohio.

4. List and describe, including case caption, case number and court of those matters where you have, within the last five (5) years brought an action against or represented any State Client in a collection matter or bankruptcy proceeding. Describe the scope of that representation, the client involved and whether the representations are closed or current.

RESPONSE:

Neither I nor any members my firm has brought an action against any State Client.

However, we have represented dozens of State Clients in thousands of collection matters over the past five years including the Department of Taxation, Bureau of Workers' Compensation, Ohio Department of Job and Family Services and The Ohio State University Medical Center. The complete list of accounts is too numerous to provide within the page restrictions of this RFQ response. Below is a sample listing of

such cases in which we have represented State Clients:

- State of Ohio Dept. of Tax. V Hartke Enterprises, Inc., 10 SCJ 49137, Montgomery County Common Pleas Court.
- State of Ohio Dept. of Tax. V C L Smith Machinery Services Inc., 10 JG 08 33091, Franklin County Common Pleas Court.
- State of Ohio Dept. of Tax. V Mark Crouse, 09 CJ 0181, Clark County Common Pleas Court
- State of Ohio Dept. of Tax. v. Timothy Dirr, CJ08008327, Hamilton County Common Pleas Court
- State of Ohio Dept. of Tax. V Copley's Paving, LLC, 2008 JD 11208, Licking County Common Pleas Court.
- State of Ohio Dept. of Tax. V James R. Gerhart, 08 ST 21 211, Delaware County Court of Common Pleas.
- ODJFS v. Bellefontaine Masonry, CV 10 11 0563, Logan County Common Pleas Court.
- State of Ohio Dept. of Tax. V Sandra Dupuy Marshall, 09TA000066, Scioto County Common Pleas Court.
- ODJFS v. Columbus W.C., Inc. v. Saila & Sunnia, Inc., 10 CVH-12-17725, Franklin County Common Pleas Court
- State of Ohio Dept. of Tax. V Regina & Lawrence Selby, 2008CJ0732, Pickaway County Common Pleas Court

D. Disclosure of Known Conflicts of Interest: Non-Collection Matters

1. Outside of collection or bankruptcy matters, have you brought or currently have a claim or cause of action against the State of Ohio or any State Client? Provide a list of all such matters, including the case caption, case number and court, the scope of the representation and the name of your client and the name of the State Client with whom your client is adverse. Please designate in your response which representations are closed and which are current.

RESPONSE:

Neither Eric A. Jones nor the Law Office of Eric A. Jones, LLC has brought a claim or cause of action against the State of Ohio or any State Client.

2. List all employees and attorneys of your firm that have previously been employed by the Attorney General or a State Client at any time, including the name of the State Client, the duration of employment and position.

RESPONSE:

I was employed by the Ohio Department of Job and Family Services as Assistant Chief of the Bureau of Managed Health Care from April 2006 to July 2007 and as Contract Administrator II from August 2005 to April 2006.

Tracy Hale was employed by the Ohio Attorney General Revenue Recovery Section

as Account Representative II, Team Leader from February 2003 to June 2005.

3. List all employees and attorneys of your firm who are indebted to the State of Ohio and the case number, account numbers and State Client to whom the financial obligation is owed, and whether the account is in good standing, or certified as a past due debt to the Attorney General, other than current tax liabilities.

RESPONSE:

None of the employees or attorneys is indebted to the State of Ohio.

E. Continuing Legal Education

List and describe those Continuing Legal Education ("CLE") seminars you and members of your firm have attended dealing with collection or bankruptcy law topics, including fair debt collection, within the last twenty-four (24) months. State the title, location, date and number of CLE credits awarded for the seminar and who attended.

RESPONSE:

Eric A. Jones attended Collections: Seeking & Collecting Judgments, December 21, 2010, located at Holiday Inn Worthington, (6 hours); Elder Law Institute Highlights, July 14, 2010, located at the Columbus Bar Association (6 hours), Current Issues in Collection Litigation (3 hours) on May 20, 2011 in Columbus, Ohio; on July 29, 2011, attended the Special Counsel Collection Seminar (4.25 hours) in Columbus, Ohio;

FDCPA and Legal Ethics Issues for Collection Attorneys, hosted by the Ohio Creditor's Attorney Association on April 27, 2012 in Columbus, Ohio (6 hours).

Robert A. Flaugher attended Current Issues in Collection Litigation (3 hours) on May 20, 2011 in Columbus, Ohio; on July 29, 2011, Mr. Flaugher attended the Special Counsel Collection Seminar (4.25 hours) in Columbus, Ohio; FDCPA and Legal Ethics Issues for collection Attorneys, hosted by the Ohio Creditor's Attorney Association on April 27, 2012 in Columbus, Ohio (6 hours).

Dustin Garris attended FDCPA and Legal Ethics Issues for Collection Attorneys, hosted by the Ohio Creditor's Attorney Association on April 27, 2012 in Columbus, Ohio (6 hours).

Section 5: Practice Areas

Please check each practice in which you are both qualified to practice and interested in representing State Clients:

_ **Bankruptcy Collection Matters** (If applying for Bankruptcy Counsel list the bankruptcy courts where you have been admitted to practice and the courts in which you have actively and continuously represented clients .)

x **General State Collections** (If you are seeking appointment to handle personal income tax or unemployment compensation fraud accounts, you must complete an Ohio SPR, available at

www.OhioAttorneyGeneral.gov/CollectionsForms , and be able to demonstrate compliance with *Publication 1075: Tax information Security Guidelines for Federal, State and Local Agencies.* A copy of this publication is available at IRS.gov.)

RESPONSE:

I have submitted an Ohio SPR concomitantly with the RFQ response.

x **Medicaid Estate Recovery**

x **Subrogation Collections**

x **University Collections** (If you are seeking appointment to handle claims or matters involving university debt, please explain the protections your office has in place to assure compliance with FERPA privacy practices.)

RESPONSE:

The Law Office of Eric A. Jones, LLC fully complies with the FERPA of 1974, as amended, (FERPA) and we have taken the necessary measures to protect the privacy of student educational records. FERPA considers collection activities a legitimate educational interest and universities may release information to Special Counsel without consent. Once student information is received by our office it is handled as it if were FTI pursuant to the responses contained in the Ohio SPR, which meets or exceeds the privacy standards under FERPA.

_ **University Medical Center Collections** (If you are seeking appointment to handle claims or matters involving medical bills, workers' compensation, crime victims compensation, or other matters involving HIPAA, please explain the protections your office has in place to assure compliance with HIPAA privacy practices.)

x **Local Debt** (If you are seeking appointment to handle local debt and you are currently under contract to collect for any local government agency, board, commission or political subdivision, you may not receive assignments of local debt.)

RESPONSE:

Neither I nor members of my firm are currently under contract to collect for any local government agency, board, commission or political subdivision.

Section 6: Experience and Resources

1. Describe your and your firm's past representation as special or outside counsel for the State of Ohio, including any State Clients represented.

RESPONSE:

Eric A. Jones has served as Special Counsel to the Ohio Attorney General since 2007. He has had approximately 40,000 collection accounts assigned to him by the Ohio Attorney General. Eric A. Jones has represented numerous state clients in

collection matters including but not limited to:

a. Ohio Lottery Commission
b. Department of Mental Health
c. Department of Taxation
d. Department of Transportation
e. Department of Natural Resources
f. The Ohio State University Medical Center
g. Ohio Public Employees Retirement System
h. Shawnee State University
i. Ohio University
j. Belmont Community College
k. Zane State College
l. Public Utilities Commission of Ohio
m. Police and Fireman Disability and Pension Fund
n. Ohio Youth Commission
o. Department Rehabilitation and Correction
p. State Teachers' Retirement System
q. Bureau of Workers' Compensation
r. Department of Vocational Rehabilitation
s. Ohio Department of Job and Family Services

2. Summarize the knowledge, expertise and experience you have in matters of state government collection, including particular State Clients and areas of practice.

RESPONSE:

I have served as Special Counsel to the Ohio Attorney General collecting debt owed to the State of Ohio since 2007 During this

time, I have represented State Clients in thousands of collection matters collecting millions of dollars. I have full knowledge of and comply with the Fair Debt Collection Practices Act in every respect. Additionally, the firm has an exceptional team of collectors, each with at least 12 years of collections experience, most of which is with Special Counsel and/or Third Party Vendors. The Director of Collections has in excess of 30 years of collections experience. Please see Section 6:1 for a sample listing of the particular State Clients I have represented.

Attorney Robert A. Flaugher has more than seventeen years of experience in collecting for consumer and commercial lenders throughout Ohio and West Virginia. Four of these years was spent working for Special Counsel.

a. Do you have any collection experience with non-state clients?

RESPONSE:

In addition to having served Collections Special Counsel to the Ohio Attorney General since 2007, I have also represented numerous non-state clients in multiple industries including law firms, healthcare providers, builders and contractors, landlords and service organizations. I have full knowledge of and comply with the Fair Debt Collection Practices Act in every respect.

b. Will the State of Ohio be your sole client?

RESPONSE:

The Law Office of Eric A. Jones, LLC also has experience collecting for multiple non-state clients and intends to continue such representation. It is anticipated that non-state clients account for less than 5% of the Firm's total collection accounts.

3. If your firm has previously collected for any other local government agencies, boards, commissions or political subdivisions, provide a list of your clients during the previous five (5) year period.

RESPONSE:

The Firm has not previously collected for any other local government agencies, boards, commissions or political subdivisions.

4. If applying for Bankruptcy Counsel list the bankruptcy courts where you have been admitted to practice, and the bankruptcy courts in which you have actively and continuously represented clients. Please describe the clients you currently represent in bankruptcy (i.e. creditors, debtors, etc...).

RESPONSE:

We have represented numerous creditors in all federal bankruptcy courts in Ohio and West Virginia. We do not represent debtors in bankruptcy matters.

5. Provide the number of collection matters your firm currently handles on an annual basis; differentiate between State Clients and other clients.

RESPONSE:

The Law Office of Eric A. Jones, LLC handles 45,000 collection accounts on an annual basis; approximately 42,000 State Client packeted accounts and 3,000 accounts for other clients.

6. List and describe how you will ensure that the Attorney General and the State Clients have representation and counsel if the primary attorney on a given matter is temporarily unavailable.

RESPONSE:

In the event that I am not available to provide requested legal services, Robert A. Flaugher, Esq., Brett Schmied, Esq., Dustin Garris, Esq., and Sonia Walker, Esq. are employed by the firm and designated to provide such services. The Law Office of Eric A. Jones, LLC also has relationships with attorneys in other states to provide assistance with matters that are outside of Ohio.

7. For each attorney expected to work under this assignment, please provide the following information:

a. A detailed description of each attorney's collection and bankruptcy experience.

RESPONSE:

- Eric A. Jones has served as Special Counsel to the Ohio Attorney General since 2007 and has collected millions of dollars and handled thousands collection matters including general collections, obtaining judgments and post judgment enforcement in the majority of counties in Ohio.
- Robert Flaugher has over seventeen years of collection law experience and has handled numerous collection matters including general collections, obtaining judgments and post judgment enforcement in nearly every county in Ohio and West Virginia. Mr. Flaugher also has extensive experience representing multiple creditors in bankruptcy proceedings in Ohio and West Virginia.
- Sonia Walker has over seven years of collection law experience and has handled numerous collection matters including general collections, obtaining judgments and post judgment enforcement,
- Brett Schmied has over two years of collection law experience and has handled numerous collection matters including general collections, obtaining judgments and post judgment enforcement.

- Dustin Garris has over one year of collection law experience and has handled numerous collection matters including general collections, obtaining judgments and post judgment enforcement.

b. Years of collection law experience.

RESPONSE:

- Eric A. Jones has nearly five years of collection law experience
- Robert Flaugher has over seventeen years of collection law experience.
- Sonia Walker has over seven years of collection law experience.
- Brett Schmied has over two year of collection law experience.
- Dustin Garris has over one year of collection law experience.

c. Percent of practice related to collection law matters.

RESPONSE:

- Ninety percent (90%) of Eric A. Jones' practice is related to collection law matters.
- Eighty-five percent (85%) of Robert Flaugher's practice is related to collection law matters.
- Twenty percent (20%) of Sonia Walker's practice is related to collection law matters.

- Forty percent (40%) of Brett Schmied's practice is related to collection law matters.
- Eighty (80%) of Dustin Garris' practice is related to collection law matters.

d. Percent of practice in state court and percent of practice in federal court.

RESPONSE:

Ninety-five percent (95%) of the firm's and its attorneys' collection law practice is in state court and five percent (5%) is in federal court.

e. Attorney registration number, the names of each state and federal bar to which he or she is admitted to practice; and the courts before which he or she is actively practicing.

RESPONSE:

- Eric A. Jones (0081670), admitted to practice law in Ohio 2007, actively practicing in all 88 Ohio counties.
- Robert Flaugher, admitted to the Ohio Bar (0066405) in 1996 and the West Virginia State Bar (7537) in 1997, admitted before all federal and state courts in both Ohio and West Virginia.
- Sonia Walker (0070422), admitted to practice in Ohio 1998, actively practicing in all 88 Ohio counties, admitted to United States District Court, Southern District 2001.

- Dustin R. Garris (00862921), admitted to practice in Ohio 2010, actively practicing in all 88 Ohio counties, admitted to United States District Court, Southern District 2011.
- Brett E. Schmied (0085076), admitted to practice in Ohio 2010, actively practicing in all 88 Ohio counties.

8. List and describe your collections computer system, including any software, cloud based computing, Integrated Voice Response, virtual environment, and/or VoIP systems utilized to collect debt. Any system that holds, processes, receives, sends, or otherwise touches tax information must be IRS Publication 1075 compliant.

RESPONSE:

The Law Office of Eric A. Jones, LLC maintains all collection accounts in the C.U.B.S. system, which provides detailed reporting capabilities for all accounts for the purpose of screening for conflicts. The Firm also utilizes the IAT SmartDial Solutions auto-dialing system to automate outgoing calls. The phone lines are direct inward dial to each collector enabling multi-line functions with voice mail. Our voice campaigns and dialer scripts are FDCPA compliant.

9. Describe how your existing systems provide the following:

a. Ability to screen incoming accounts for potential conflicts with the Attorney General and any State Client.

RESPONSE:

The Law Office of Eric A. Jones, LLC maintains all collection matters on the Columbia Ultimate Business Solutions (C.U.B.S.) system. We run a "matching report" upon loading new accounts into the C.U.B.S. system. The matching report algorithm searches the names, SSNs, phone numbers, addresses, and clients of existing data in the system and identifies any newly input accounts that match existing ones. The matching report is then examined to determine if any potential conflicts exist. Non-collection clients are maintained on a separate system but such clients are input into the C.U.B.S. system at least monthly to be included in the matching reports.

b. Ability to segregate state accounts from the other business of the firm.

RESPONSE:

The Law Office of Eric A. Jones, LLC segregates all collection accounts on the C.U.B.S. system, non-collection accounts are maintained on the Prevail system. **[REDACTED]**

c. Ability to document collection efforts.

RESPONSE:

The Law Office of Eric A. Jones, LLC documents all collections efforts including

summaries of telephone communications, communication attempts, payments received and actions taken regarding each account in real time on the C.U.B.S. system. Our C.U.B.S. system undergoes as daily refresh with the Ohio Attorney General's system to facilitate prompt communication to State Clients.

d. Ability to image documents.

RESPONSE:

The Law Office of Eric A. Jones, LLC has six document imaging devices on site; however we primarily use a Cannon iR 5000 PLL 5 E copy station for imaging purposes. All client media and received debtor correspondence are imaged to each debtor account. Images of payments, correspondence and client media are time stamped on the account when they are processed. Documents are imaged to the System using a Cannon iR 5000 PLL 5 E imaging system.

e. Your phone systems, including auto-dialer, call recording and monitoring capabilities.

RESPONSE:

The Law Office of Eric A. Jones, LLC's telephone system is the Mitel 5000 Communications Platform system. This system provides a compact flash card which is used for storage of voice mail, auto attendant, greetings and database information. This system enables the Firm to monitor and/or record daily call activity.

It also provides a call history log per extension and real time call monitoring by supervisors and for training purposes. The Firm utilizes the IAT SmartDialSolutions auto-dialing system to automate outgoing calls. The phone lines are direct inward dial to each collector enabling multi-line functions with voice mail. Our campaigns and dialer scripts are FDCPA compliant. Additionally, collection calls are routinely monitored and/or recorded to ensure staff compliance with the FDCPA. We offer a nationwide toll free number for long distance consumers.

f. Ability to generate, track and retain records documenting collection activities, and share these transactions electronically with the Attorney General.

RESPONSE:

The Law Office of Eric A. Jones, LLC has the ability to generate, track, and retain records documenting collection activities and share these activities with the Attorney General via the C.U.B.S. system. The C.U.B.S. system is designed to allow collectors efficient means for retrieving and documenting information for each collection claim and is refreshed daily with the Ohio Attorney General's system.

g. Other systems utilized in collection of debt.

RESPONSE:

We do not use any other systems utilized in the collection of debt not otherwise mentioned herein.

h. Legal researching systems.

RESPONSE:

We have an internal law library and we utilize computerized legal research systems including Lexis-Nexis, Westlaw, and Casemaker.

i. Existing interfaces to update the Attorney General's Collections System.

RESPONSE:

We currently interface and conduct a daily refresh to electronically share transactions with the Attorney General's information management systems including C.U.B.S., Client View and Compass Computer Solutions. Our staff has extensive experience interfacing with the Attorney General with other private entities and can be modified to accommodate any specific needs that may arise.

j. Legal researching systems, such as Casemaker, Lexis/Nexis, Westlaw or other researching system.

RESPONSE:

The Law Office of Eric A. Jones, LLC has access to Lexis-Nexis and Westlaw, and Casemaker is also utilized for legal research.

k. List your skip tracing tools.

RESPONSE:

We utilize Accurint, Lexis Nexis, Westlaw, and TLO for skip tracing services. We also use creative skip tracing methods utilizing various internet and other publicly available sources.

10. Provide a list of particular counties of the state in which you wish to work.

RESPONSE:

I am requesting to work in all Ohio counties. I have adequate internal processes, systems and staff to cover the entire state and presently do so.

11. Disaster Recovery Plan Please attach a copy of your data disaster recovery plan. Your plan should describe how you maintain security for you data and list any vendors who may have access to your data.

[REDACTED]

Section 7: Curriculum Vitae

Please attach the curriculum vitae of each attorney or paralegal in your firm who would be involved with work assigned as Collections Special Counsel. Provide the following information:

RESPONSE:

A curriculum vitae of each attorney or paralegal in the firm who would be involved with work assigned as Collections Special Counsel is attached as Attachment 10.

1. Identify whether you or any of your partners or associates is an elected official or member of any board or commission at the state or local level. Describe the position(s) with specificity.

RESPONSE:

There are no partners or associates in the firm that serve as an elected official or member of any board or commission at the state or local level.

2. For each person that will be assisting with collection work, please include: attorney registration number; the names of each state and federal bar to which he or she is admitted to practice; the courts before which he or she is actively practicing; bar association memberships; bar committee memberships and title or position in each, if any; professional and civic organizations; and any special awards or honors received.

RESPONSE:

- Eric A. Jones (0081670), admitted to practice law in Ohio 2007, actively practicing in all 88 Ohio counties, member of the Ohio State Bar Association and Columbus Bar Association, member of the Columbus Bar Association Health Care law Committee, member of Columbus Bar Association Small/Solo Law Firm Committee, member of Columbus Bar Association Social Security Disability Committee, serve on Board of Directors

and as First Vice President of the Disability Network of Ohio-Solidarity Foundation, Community Board Member of the Center of Science and Industry (COSI).

- Robert Flaugher, admitted to the Ohio Bar (0066405) in 1996 and the West Virginia State Bar (7537) in 1997, member of the Ohio and Columbus Bar Associations and West Virginia Bar Association, admitted before all federal and state courts in both Ohio and West Virginia. Mr. Flaugher is also a trained mediator and mediates civil matters in Ohio and West Virginia.
- Sonia Walker (0070422), admitted to practice in Ohio 1998, actively practicing in all 88 Ohio counties, admitted to United States District Court, Southern District 2001, member of the Ohio State Bar Association and Columbus Bar Association and member of Columbus Bar Association Social Security Disability Committee.
- Dustin R. Garris (0086291), admitted to practice in Ohio 2010, actively practicing in all 88 Ohio counties, member of the Ohio State Bar Association and Columbus Bar Association, member of the Columbus Bar Association Health Care Law Committee, and member of Columbus Bar Association Social Security Disability Committee.

- Brett E. Schmied (0085076), admitted to practice in Ohio 2010, actively practicing in all 88 Ohio counties, member of the Ohio State Bar Association and Columbus Bar Association, member of the Columbus Bar Association Health Care Law Committee, and member of Columbus Bar Association Social Security Disability Committee.

ATTACHMENT 1

[Letterhead of Mike DeWine
Ohio Attorney General]

AFFIDAVIT OF ELIGIBILITY
FOR SPECIAL COUNSEL APPOINTMENT

STATE OF OHIO:

COUNTY OF FRANKLIN: SS.

The undersigned, being first duly sworn, deposes and says as follows:

1. I am under consideration for an appointment as outside counsel by Ohio Attorney General Mike DeWine, and make this affidavit to certify my eligibility for such an appointment.
2. I hereby certify that neither I nor my law firm is disqualified under Ohio Revised Code § 3517.13 from being awarded a contract by Attorney General Mike DeWine.
3. I certify that neither I nor any of my partners, or officers, directors, or shareholders of my firm nor the spouses of any such person have

made contributions in excess of the limitations specified in R.C. § 3517.13.

4. I recognize that, pursuant to R.C. § 3517.992(R), whoever violates division (I) or (J) of R.C. § 3517.13 shall be fined up to one thousand dollars, and that any contract awarded to me in violation of either of those divisions may be rescinded.

/s/Eric A. Jones
SIGNATURE

LAW OFFICE OF ERIC A. JONES, LLC
FIRM NAME

ERIC A. JONES
PRINTED NAME

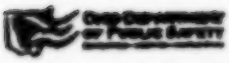
Sworn to before me, and subscribed in my presence this 30th day of April, 2012.

/s/ Trinity L. Vaughn
Notary Public, State of Ohio

[notary seal]

ATTACHMENT 2

DECLARATION OF MATERIAL ASSISTANCE ("DMA")



OHIO HOMELAND SECURITY

GOVERNMENT BUSINESS AND FUNDING CONTRACTS

In accordance with section 2909.33 of the Ohio Revised Code

DECLARATION REGARDING MATERIAL ASSISTANCE/NON-ASSISTANCE TO A TERRORIST ORGANIZATION

This form serves as a declaration by an applicant for a government contract or funding of material assistance/non-assistance to an organization on the U.S. Department of State Terrorist Exclusion List ("TEL"). Please see the Ohio Homeland Security Division Web site for a copy of the TEL.

Any answer of "yes" to any question, or the failure to answer "no" to any question on this declaration shall serve as a disclosure that material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List has been provided. Failure to disclose the provision of material assistance to such an organization or knowingly making false statements regarding material assistance to such an organization is a felony of the fifth degree.

For the purposes of this declaration, "material support or resources" means currency, payment instruments, other financial securities, funds, transfer of funds, and financial services that are in excess of one hundred dollars, as well as communications, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

Law Office of Eric A. Jones, LLC			(614) 948-8888
888 S High St., # 100			
Columbus	OH	43215	Franklin
Eric A. Jones			Owner/Attorney

DECLARATION

In accordance with section 2909.33 (A)(2)(b) of the Ohio Revised Code

For each question, indicate either "yes," or "no" in the space provided. Responses must be truthful to the best of your knowledge.

1. Are you a member of an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☒ No
2. Have you used any position of prominence you have with any country to persuade others to support an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☒ No
3. Have you knowingly solicited funds or other things of value for an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☒ No
4. Have you solicited any individual for membership in an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☒ No
5. Have you committed an act that you know, or reasonably should have known, affords "material support or resources" to an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☒ No
6. Have you hired or compensated a person you know to be a member of an organization on the U.S. Department of State Terrorist Exclusion List, or a person you know to be engaged in planning, assisting, or carrying out an act of terrorism? ☐ Yes ☒ No

If an applicant is prohibited from receiving a government contract or funding due to a positive indication on this form, the applicant may request the Ohio Department of Public Safety to review the prohibition. Please see the Ohio Homeland Security Web site for information on how to file a request for review.

CERTIFICATION

I hereby certify that the answers I have made to all of the questions on this declaration are true to the best of my knowledge. I understand that if this declaration is not completed in its entirety, it will not be processed and I will be automatically disqualified. I understand that I am responsible for the correctness of this declaration. I understand that failure to disclose the provision of material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List, or knowingly making false statements regarding material assistance to such an organization is a felony of the fifth degree. I understand that any answer of "yes" to any question, or the failure to answer "no" to any question on this declaration shall serve as a disclosure that material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List has been provided by myself or my organization. If I am signing this on behalf of a company, business or organization, I hereby acknowledge that I have the authority to make this certification on behalf of the company, business or organization referenced on page 1 of this declaration.

APPLICANT SIGNATURE	DATE
X	April 30, 2012

ATTACHMENT 3

VENDOR INFORMATION FORM

All parts of the form must be completed by the vendor. Incomplete forms will be returned. The information must be legible. Ensure this is the latest version of the form at www.ohioattorneygeneral.gov/Forms

SECTION 1 – PLEASE SPECIFY TYPE OF ACTION

☒ NEW W-9 OR W-9REQ FORM ATTACHED ☐ CHANGE OF CONTACT PERSON/INFORMATION

☐ ADDITIONAL ADDRESS – (A COPY OF AN INVOICE OR A LETTER REQUESTING THE ADDRESS IS REQUIRED)

☐ CHANGE OF ADDRESS – (PLEASE PROVIDE OLD ADDRESS BELOW OR ATTACH LETTER)

ADDRESS TO BE REPLACED:

☐ CHANGE OF TIN (W-9 & LETTER OF CLARIFICATION OF CHANGE, WHICH INCLUDES NEW & OLD TIN IS REQUIRED)

☐ CHANGE OF NAME (W-9 & LETTER OF CLARIFICATION OF CHANGE, WHICH INCLUDES NEW & OLD NAME IS REQUIRED)

☐ CHANGE OF PAY TERMS ☐ CHANGE OF PO DISPATCH METHOD ☐ OTHER_____

SECTION 2 – VENDOR INFORMATION

LEGAL BUSINESS OR INDIVIDUAL NAME: (EXACT MATCH W-9 and W-9REQ Form)
LAW OFFICE OF ERIC A. JONES, LLC

BUSINESS NAME, TRADE NAME, DOING BUSINESS AS (IF DIFFERENT THAN ABOVE)

FEDERAL EMPLOYER ID (EIN) OR SOCIAL SECURITY NUMBER (SSN): [redacted]

SECTION 3 – VENDOR CONTACT ADDRESS

ADDRESS:		COUNTY:
909 S High Street, Suite 100		Franklin
CITY:	STATE:	ZIP CODE:
Columbus	OH	43215

SECTION 4 – ADDITIONAL ADDRESS (IF MORE THAN 2 ADDRESSES, PLEASE INCLUDE A SEPARATE SHEET)

ADDRESS:		COUNTY:
CITY:	STATE:	ZIP CODE:

OBM-5657 REV. 11/1/2011

[redacted]

NAME: Eric A. Jones

WEBSITE: www.ericjoneslaw.com

PHONE: 914-[redacted] FAX: 914-234-[redacted] EMAIL: EJONES@ERICJONESLAW.COM

PREFERRED METHOD OF BEING CONTACTED: (CHOOSE ONE) ☐ PHONE ☒ EMAIL

[redacted]

NAME: Eric A. Jones

EMAIL: EJONES@ERICJONESLAW.COM PHONE: 914-[redacted]

[redacted]

☐ 2/10 NET 30 ☒ NET 30 ☐ NET 45 ☐ NET 60 ☐ NET 90

EMAIL ☒ FAX: 914-234-[redacted]

PRINT NAME: ERIC A JONES

SIGNATURE: [DIGITAL SIGNATURES NOT ACCEPTED AT THIS TIME] DATE: April 30, 2012

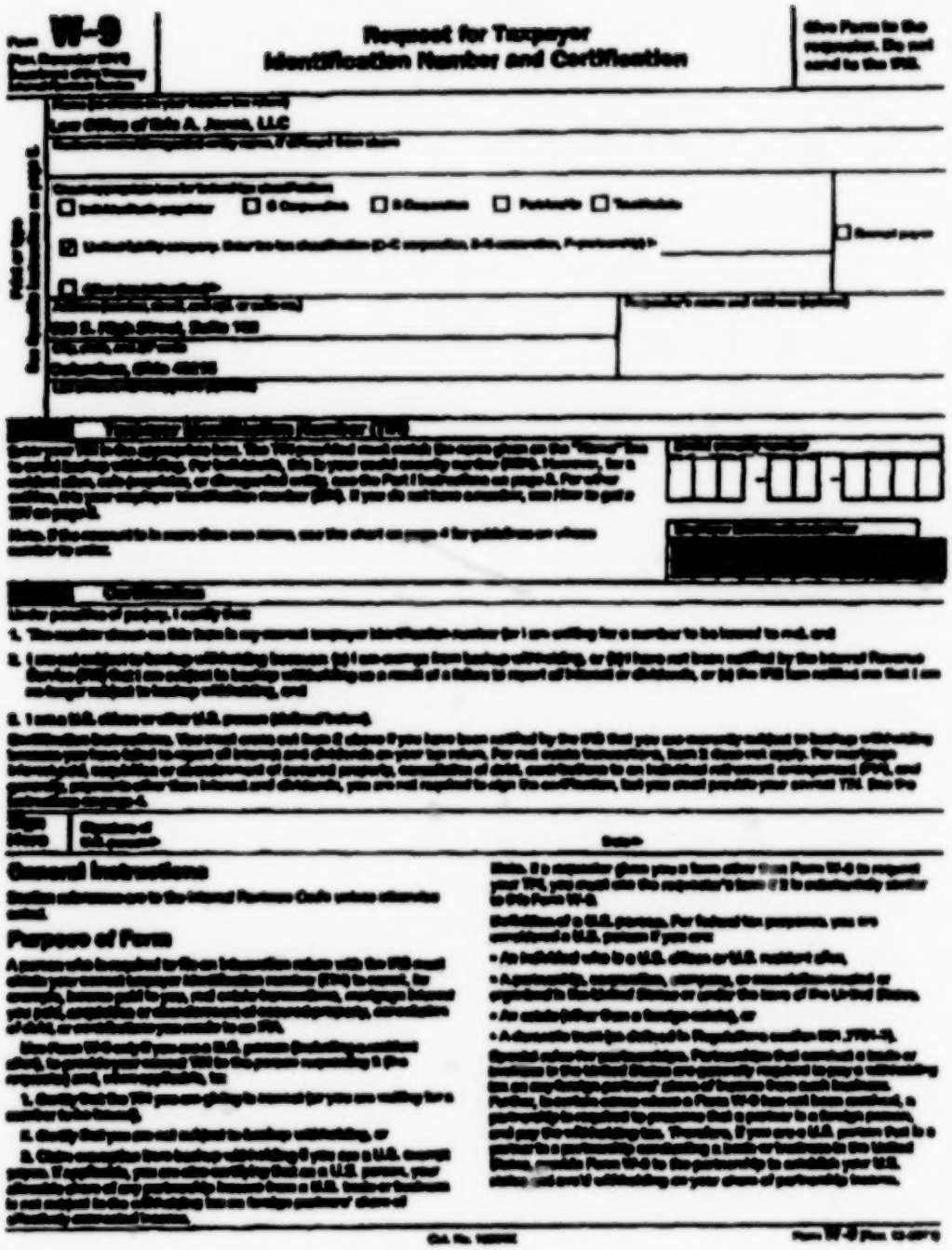
AGENCY CONTACT NAME/EMAIL/PHONE:

COMMENTS:

Note: This document contains sensitive information. Sending via non-secure channels, including e-mail and fax can be a potential security risk.

[redacted]

0944-5657 REV. 11/1/2011



Form **W-9**

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Print or type

Law Office of Eric A. Jones, LLC

☐ Individual/sole proprietor ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☑ Limited liability company. Enter tax classification (C=C corporation, S=S corporation, P=partnership) ▶

☐ Other (see instructions) ▶

☐ Exempt payee

Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here — Signature of U.S. person ▶ Date ▶

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

Cat. No. 10231X Form **W-9** (Rev. 12-2011)

ATTACHMENT 4

[Letterhead of Mike DeWine
Ohio Attorney General]

DEMOGRAPHICS

Eric A. Jones
Law Office of Eric A. Jones, LLC

Please provide our office with information on the composition of your staff. Please include totals for all employees, partners, associates, of counsel, shareholders and members.

	Nationwide	Ohio Only
Total Number of Employees	16	16
Total Number of Women	9	9
% of Women Employees	56%	56%
Total Number of Minorities	5	5
% of Minority Employees	31%	31%

Is your firm minority owned? Yes ☐ No ☒

Is your firm female owned? Yes ☐ No ☒

ATTACHMENT 5

Ohio | Bureau of Workers' Compensation

30 W. Spring St.
Columbus, OH 43215

Certificate of Premium Payment

This certifies the employer listed below has paid into the Ohio State Insurance Fund as required by law. Therefore, the employer is entitled to the rights and benefits of the fund for the period specified. For more information, call 1-800-OHIOBWC.

This certificate must be conspicuously posted.

Policy No. and Employer	Period Specified Below
1558970	03/14/2012 THRU 08/31/2012

LAW OFFICE OF ERIC A JONES LLC
580 S HIGH ST
COLUMBUS OH 43215-5642

ohiobwc.com

Administrator/CEO

You can reproduce this certificate as needed.

Ohio Bureau of Workers' Compensation

Required Posting

Effective Oct. 13, 2004, Section 4123.54 of the Ohio Revised Code requires notice of rebuttable presumption. Rebuttable presumption means an employee may dispute or prove untrue the presumption (or belief) that alcohol or a controlled substance not prescribed by the employee's physician is the proximate cause (main reason) of the work-related injury.

The burden of proof is on the employee to prove the presence of alcohol or a controlled substance was not the proximate cause of the work-related injury. An employee who tests positive or refuses to submit to chemical testing may be disqualified for compensation and benefits under the Workers' Compensation Act.

Ohio | Bureau of Workers' Compensation

You must post this language with the certificate of premium payment.

OP-29 BWC-1629 7/1/08

ATTACHMENT 6

[Letterhead of Ohio
Department of Administrative Services]

4/23/2012

Eric Jones
Law Office of Eric A Jones
580 South High St, Suite 100
Columbus, OH 43215

Dear Eric Jones:

SUBJECT: Affirmative Action Program Verification
Effective Dates: 04/23/2012 through 04/22/2013

As you are aware, a company desiring to participate in the State of Ohio procurement process must demonstrate to this Office that the company has complied with all applicable federal and state affirmative action programs for at least the last year.

After careful review of the affirmative action documentation you provided to this office, the Equal Opportunity Division of the Ohio Department of Administrative Services has determined that Law Office of Eric A Jones satisfactorily meets the requirements set forth in Section 125.111(B) of the Ohio Revised Code as is required for participation in the State of Ohio procurement process. This letter shall serve as the state's official certification to this effect.

Please note that the Equal Opportunity Division may conduct an audit of the Law Office of Eric A Jones's affirmative action program to determine the

company's continued compliance with Section 125.111 of the Ohio Revised Code.

As the Affirmative Action Program Verification indicates, the State of Ohio values diversity among its business partners and their employees, and hopes to see them grow and prosper. Consequently, we are delighted to be able to assist your company by approving your affirmative action program efforts. If you need any assistance or have questions about the Affirmative Action Program Verification, its objectives or its operation, please contact the Equal Opportunity Division's Construction Compliance Unit at 614.466.8380.

Sincerely,

/s/ Richard M. Scott

Richard M. Scott
State EEO Coordinator
Ohio Department of Administrative Services

ATTACHMENT 7

OBLIC

OHIO BAR LIABILITY INSURANCE COMPANY

DECLARATIONS

PROFESSIONAL LIABILITY POLICY

(THIS IS A CLAIMS-MADE AND REPORTED POLICY, READ CAREFULLY)

Policy No. 296733 Firm Number: 9101

Item 1. Named Insured(s) and Office Address:

Law Office of Erin A Joyce LLC
500 S High St
Ste 100
Columbus, OH 43215

Item 2. Policy Periods: From: May 12, 2011 To: May 12, 2012 12:01 A.M., Eastern Standard Time at the address of Named Insured as stated herein

Item 3. Limits of Liability: $250,000 to all claims arising out of the same, related or continuing "Professional Services"

$500,000 aggregate per policy period

Item 4. Deductible Amount: $5,000
(Includes Claims Expense)

Item 5. Total Policy Premium $2,853

OBLIC
OHIO BAR LIABILITY INSURANCE COMPANY

DECLARATIONS

PROFESSIONAL LIABILITY POLICY

(THIS IS A CLAIMS-MADE AND REPORTED POLICY, READ CAREFULLY)

Policy No. 236733 Firm Number: 9101

Item 1. Named Insured(s) and Office Address:

Law Office of Eric A Jones LLC
500 S High St
Ste 100
Columbus, OH 43215

Item 2. Policy Period: From: May 12, 2013 To: May 12, 2013 12:01 A.M., Eastern Standard Time at the address of Named Insured as stated herein

Item 3. Limits of Liability: $250,000 to all claims arising out of the same, related or continuing "Professional Services"

$500,000 aggregate per policy period

Item 4. Deductible Amount: (Includes Claims Expense) $5,000

Item 5. Total Policy Premium $4,624

ATTACHMENT 8

THE SUPREME COURT OF OHIO

CERTIFICATE

I, SUSAN B. CHRISTOFF, Director of the Attorney Services Division of the Supreme Court of Ohio, do hereby certify that I am the custodian of the records of the Office of Attorney Services of the Supreme Court and that the Attorney Services Division is responsible for reviewing Court records to determine the status of Ohio attorneys. I further certify that, having fulfilled all of the requirements for admission to the practice of law in Ohio,

Eric Alan Jones

was admitted to the practice of law in Ohio on May 14, 2007; has registered as an active attorney pursuant to the Supreme Court Rules for the Government of the Bar of Ohio; is in good standing with the Supreme Court of Ohio; and is entitled to practice law in this state.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court, this 18th day of April, 2012.

/s/ SUSAN B. CHRISTOFF
Director, Attorney Services Division

/s/ Attorney Services Specialist

THE SUPREME COURT OF OHIO

CERTIFICATE

I, SUSAN B. CHRISTOFF, Director of the Attorney Services Division of the Supreme Court of Ohio, do hereby certify that I am the custodian of the records of the Office of Attorney Services of the Supreme Court and that the Attorney Services Division is responsible for reviewing Court records to determine the status of Ohio attorneys. I further certify that, having fulfilled all of the requirements for admission to the practice of law in Ohio,

Dustin Robert Garris

was admitted to the practice of law in Ohio on November 08, 2010; has registered as an active attorney pursuant to the Supreme Court Rules for the Government of the Bar of Ohio; is in good standing with the Supreme Court of Ohio; and is entitled to practice law in this state.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court, this 18th day of April, 2012.

/s/ SUSAN B. CHRISTOFF
Director, Attorney Services Division

/s/ Attorney Services Specialist

THE SUPREME COURT OF OHIO

CERTIFICATE

I, SUSAN B. CHRISTOFF, Director of the Attorney Services Division of the Supreme Court of Ohio, do hereby certify that I am the custodian of the records of the Office of Attorney Services of the Supreme Court and that the Attorney Services Division is responsible for reviewing Court records to determine the status of Ohio attorneys. I further certify that, having fulfilled all of the requirements for admission to the practice of law in Ohio,

Brett Eric Schmied

was admitted to the practice of law in Ohio on November 9, 2009; has registered as an active attorney pursuant to the Supreme Court Rules for the Government of the Bar of Ohio; is in good standing with the Supreme Court of Ohio; and is entitled to practice law in this state.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court, this 18th day of April, 2012.

/s/ SUSAN B. CHRISTOFF
Director, Attorney Services Division

/s/ Attorney Services Specialist

THE SUPREME COURT OF OHIO

CERTIFICATE

I, SUSAN B. CHRISTOFF, Director of the Attorney Services Division of the Supreme Court of Ohio, do hereby certify that I am the custodian of the records of the Office of Attorney Services of the Supreme Court and that the Attorney Services Division is responsible for reviewing Court records to determine the status of Ohio attorneys. I further certify that, having fulfilled all of the requirements for admission to the practice of law in Ohio,

Sonia Tanferi Walker

was admitted to the practice of law in Ohio on May 17, 1999; has registered as an active attorney pursuant to the Supreme Court Rules for the Government of the Bar of Ohio; is in good standing with the Supreme Court of Ohio; and is entitled to practice law in this state.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court, this 18th day of April, 2012.

/s/ SUSAN B. CHRISTOFF
Director, Attorney Services Division

/s/ Attorney Services Specialist

THE SUPREME COURT OF OHIO

CERTIFICATE

I, SUSAN B. CHRISTOFF, Director of the Attorney Services Division of the Supreme Court of Ohio, do hereby certify that I am the custodian of the records of the Office of Attorney Services of the Supreme Court and that the Attorney Services Division is responsible for reviewing Court records to determine the status of Ohio attorneys. I further certify that, having fulfilled all of the requirements for admission to the practice of law in Ohio,

Robert Austin Flaugher

was admitted to the practice of law in Ohio on November 12, 1996; has registered as an active attorney pursuant to the Supreme Court Rules for the Government of the Bar of Ohio; is in good standing with the Supreme Court of Ohio; and is entitled to practice law in this state.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court, this 18th day of April, 2012.

/s/SUSAN B. CHRISTOFF
Director, Attorney Services Division

/s/Attorney Services Specialist

STATE OF WEST VIRGINIA

I, Rory, L. Perry II, Clerk of the Supreme Court of Appeals of West Virginia, hereby do certify that Robert A. Flaugher, of Columbus, Ohio, an attorney duly licensed to practice law in this State, was admitted to practice law before the Supreme Court of Appeals of West Virginia, the highest court of the State, on the 15th day of October, 1997; that he is an attorney in good standing in said Court and is currently on active status and that his private and professional characters are good.

Given under my hand and seal of said Court, at Charleston, West Virginia, this 19th day of April, 2012, and in the 149th year of the State.

/s/ Rory L. Perry II
Clerk, Supreme Court of Appeals of West Virginia

[seal]

ATTACHMENT 9

[Letterhead of
Law Office of Eric A. Jones, LLC]

[REDACTED]

ATTACHMENT 10

ERIC A. JONES
500 S. High Street, Suite 100
Columbus, Ohio 43215
(614) 585-9998
ejones@ericjonesLaw.com

EDUCATION

Capital University Law School, Columbus, Ohio
Juris Doctor, January 2007

Capital University, Columbus, Ohio
Masters of Business Administration, August 2002

Ohio University, Athens, Ohio
Bachelor of Science in Communications, June 1995

PROFESSIONAL EXPERIENCE

LAW OFFICE OF ERIC A. JONES, LLC
- Provide legal services to businesses and individuals throughout Ohio.
- Serve as Outside General Counsel for the Ohio Osteopathic Association.
- Appointed Special Counsel for the Ohio Attorney General for Collections Enforcement and Revenue Recovery.
- Represent health care professionals and individuals on a wide range of legal issues statewide.

OHIO DEPARTMENT OF JOB AND FAMILY SERVICES, *August 2005 to July 2007*
Assistant Chief, Bureau of Managed Health Care, April 2006 to July 2007
- Direct multiple teams responsible for all activities related to the Ohio's Medicaid managed care program.
- Developed and implemented the Ohio Bureau of Managed Health Care's strategic initiatives to expand Medicaid managed care to 1.25 million Covered Families and Children and Aged Blind and Disabled consumers.
- Responsible for developing managed care contracts, program requirements and monitoring for compliance.
- Directed Ohio's procurement for selecting managed care plans to serve Ohio's $4 billion managed care program.
- Coordinate all administrative rule & proposed development, waiver &/or state plan amendments to establish & maintain federal approval for the Medicaid managed care program and other managed care initiatives.

Assistant Section Chief of Contract Administration, Bureau of Managed Health Care, August 2005 to April 2006
- Directed the operations of the Contract Administration Section responsible for the oversight of multiple Medicaid managed care plans to ensure proper administration and implementation of Medicaid services.
- Responsible for oversight of managed care plan compliance with federal & state regulations, rules & laws.

OHIO STATE MEDICAL ASSOCIATION, January 2005 to August 2005
Aid to General Counsel
- Conducted legal research and drafted position papers for the Chief Legal Counsel.

VAN WERT COUNTY HOSPITAL, June 2000 to May 2003
Vice President, Physician & Community Services
- Managed the Medical Staff Services office responsible for physician recruitment, physician relations and provider credentialing.

- Negotiated employment and lucrative guarantee contracts with physicians.
- Developed and maintained hospital wide strategic plans.
- Directed all aspects of the hospital's marketing activities and public relations.
- Provided hospital wide staff educational programs on leadership and client service training.
- Served as hospital administrative representative on all medical staff committees.
- Monitored and improved patient satisfaction and achieved Press Ganey rankings in the 90th percentile or above in patient satisfaction for inpatient, outpatient and emergency services.

COMPMANAGEMENT, June 1999 to June 2000
Regional Account Manager
- Represented employers at workers' compensation hearings averaging 40 hearings per week.
- Responsible for sales and service to employers and employer groups.

HEALTH POWER HMO, July 1995 to June 1999
Manager, Provider & Member Services, July 1996 to June 1999
- Managed staff responsible for negotiating contracts with physicians, hospitals and ancillary providers.
- Analyzed provider network and market trends to strategically plan future development needs.
- Directed Provider Credentialing Department responsible for credentials verification in accordance with NCQA guidelines.
- Managed Member and Provider Services call center responding to an average of 500 calls per day.
- Responsible for PHO outsourcing and delegated credentialing agreements.

Provider Relations Representative, July 1996 to December 1997
- Developed provider networks in new service areas through negotiating and contracting with physicians, hospitals, PHOs and ancillary providers.
- Performed credentialing audits of PHO provider networks.
- Assessed provider compliance with MCO policies and procedures.
- Resolved provider concerns regarding contracts, fee schedules, payments and health plan policies.
- Collaborated with providers for joint marketing activities.

Credentialing Specialist, July 1995 to July 1996
- Responsible for the collection and verification of provider credentials per NCQA guidelines.
- Maintained over 3000 provider credentials files.
- Maintained provider database and quality control of provider directory.

Robert A. Flaugher, Esq.

681 Monumentary Drive
Pickerington, Ohio 43147
Telephone (614) 205-1836

EDUCATION

Capital University Law School, Columbus, OH May 1996
GPA: 3.21 on 4.0 scale
Class Rank: Top 20%
Case Leads, Order of the Coif

Marshall University, Huntington, WV May 1989
Bachelor of Arts in Criminal Justice with minors in Accounting, Spanish and Psychology
Office in Tau Kappa Epsilon Fraternity, Member of the University's Greek Judicial Board

PROFESSIONAL EXPERIENCE

The Law Office of Eric A. Jones, LLC, Columbus, OH April 2011 to Present

- **Practice areas include general business litigation, commercial and consumer litigation, and personal injury in Ohio and West Virginia**
- **Merge commercial and consumer litigation clients into existing law practice**
- **Serve as an appointed mediator in Franklin County**

Bono & Parker Co., L.P.A., Columbus, OH February 2008 to April 2011

- **Practice areas include general business litigation, commercial litigation, bankruptcy and foreclosure**
- **Create and profitably maintain a West Virginia legal department within the firm as the only lawyer in charge of West Virginia legal matters. This responsibility includes all facets of subrogation, bankruptcy and commercial and consumer litigation matters**
- **Serve as an appointed mediator in Franklin County**

Frank & Wooldridge Co., L.P.A., Columbus, OH May 2005 to February 2008

- **Practice areas include general business litigation, commercial litigation and consumer collection**
- **Successfully merged the Law Office of Robert A. Flaugher, LLC with Frank & Wooldridge, bringing in several business clients F&W had never worked with before**

Law Office of Robert A. Flaugher, LLC, Pickerington, OH May 2004 to May 2005

- **Retained several business clients from both Lane, Alton & Horst and Weltman, Weinberg & Reis that came with me**
- **Practice included general business litigation on both plaintiff and defendant side, professional malpractice and personal injury**
- **Staff included part-time paralegal and secretary**
- **Approached by Frank & Wooldridge in spring of 2005 to merge my practice with theirs to increase their civil litigation footprint**

Weltman, Weinberg & Reis Co., L.P.A., Columbus, OH February 1998 to December 1998
Senior Attorney September 2002 to May 2004

- **Practice Areas: Commercial Litigation and Lender Liability**
- **Experienced in all facets of trial preparation including first chair trial experience**

- Created and profitably maintained a West Virginia legal department within the firm and was the only lawyer in charge of West Virginia legal matters for all 6 WWH offices. Developed a large client base made up of regional and national institutional clients
- Coordinated several seminars for clients relating to Ohio and West Virginia civil litigation
- Managed West Virginia and Ohio Commercial Litigation departments

Lane, Allen & Hurst, Columbus, OH April 2001 to September 2002
Litigation Associate

- Practice Areas: Product Liability, Insurance Defense, General Defense Litigation and Commercial Litigation
- Experienced in all facets of trial preparation including first chair trial experience. Representing clients in OH and WV courts

Hendrickson & Long, P.L.L.C., Charleston, WV January 1999 to April 2001
Litigation Associate

- Practice Areas: Product Liability, Insurance Defense, General Defense Litigation and Commercial Litigation
- Experienced in all facets of trial preparation including first chair jury trial and bench trial experience. Representing clients in OH and WV courts
- Chosen by firm to attend the nationally renowned Trial Advocacy Institute at the University of Virginia School of Law (January 2001)

Wilmington Industries, Inc. Western Knob, Mainframe (Charlotte), NC February 1998 to August 1998
Outside Sales Representative-Corrugated Container Division

- Responsible territory included all of North Carolina and parts of South Carolina
- My customer base included Dravenly, Plum Mat, Rubbermaid and Dean Laboratories

AWARDS RECEIVED

- Member of the Capital University Moot Court Board (1994-1998)
  - Chief Justice (1998)
  - Associate Chief Justice (1997)
- Winner of the 1996 Capital University Upperclass Moot Court Competition
- Finalist in the 1994 Capital University First Year Moot Court Competition
- Presented with the CALI Book Award for excellence in the study of Trial Advocacy at Capital University (1997)
- Presented with the American Jurisprudence Book Award by *Lawyers Cooperative Publishing* for excellence in the study of the Legal Profession at Capital University (1994)

PROFESSIONAL MEMBERSHIPS

- Member of the Columbus Bar Association, and the Ohio and West Virginia Bar Associations
- Licensed in all state and federal courts in Ohio and West Virginia
- Two-term Member of the Capital University Law School Alumni Board of Directors (2001-2004)
- Trained mediator (2004)

References Upon Request

Brett E. Schmied

2942 Waterfall Lane • Columbus, OH 43215 • 614.546.9024 • bschmied@brettjlaw.com

BAR ADMISSION

State of Ohio, November 2009
Practicing in all 88 Counties in Ohio
Supreme Court of Ohio Registration Number: 0085976

EDUCATION

Ohio Northern University College of Law, Ada, OH
Juris Doctor (May 2009)
- GPA: 3.38/4.0
- Dean's List (2 Semesters)
- Book Award (awarded to the highest grade in the class), Remedies

Muskingum College, New Concord, OH
Bachelor of Arts, Magna Cum Laude, In Speech Communication, minor in Political Science (May 2006)
- GPA: 3.858/4.0
- Dean's List (7 semesters)

LEGAL EXPERIENCE

Law Office of Eric A. Mann, LLC, Columbus, OH
Attorney (January 2010 - Present)
- Take and prepare for hearings
- Give legal advice
- Draft motions and other legal documents
- Research legal issues
- Represent clients in both civil and criminal law
- Assisting clients execute judgments

District Judge Gregory L. Frost, Columbus, OH
Intern (May 2008 – July 2008)
- Drafted memoranda and other legal documents
- Researched legal issues and ascertained facts
- Communicated with Judge Frost and his law clerks
- Drafted orders for Judge Frost
- Analyzed evidence

AFFILIATIONS

Member, Ohio State Bar Association
Member, Columbus Bar Association and Social Security Disability Committee

CLE

Ohio Elder Law Institute Highlights – 5 hours.

Sonia T. Walker

9838 Malibu Court • Plain City, Ohio 43064

(614)795-0397 (Day) • [redacted]

BAR ADMISSIONS:

- STATE OF OHIO, 1998 Supreme Court ID: 0070422
- UNITED SATES DISTRICT COURT, SOUTHERN DISTRICT OF OHIO, 2001
- Actively practicing in Ohio's 88 Counties

SUMMARY OF QUALIFICATIONS:

- Experienced Attorney with a comprehensive background in trial law for civil matters
- Proven ability to litigate cases involving Personal Injury, Insurance Defense, Political Subdivision Liability, Wrongful Termination, FMLA and COBRA violations

PROFESSIONAL EXPERIENCE:

Jan. 10-Present LAW OFFICE OF ERIC A. JONES Columbus, Ohio

Of Counsel

- Represent Social Security Disability Claimants from initial filing through appeal
- Perform all aspects of litigation, including discovery, motion drafting and trial preparation
- Participate in mediation and settlement negotiations on civil matters

May. 00-Nov. 01 ISAAC, BRANT, LEDMAN & TEETOR Columbus, Ohio

Associate - Litigation

- Defend civil litigants in personal injury, political subdivision liability and appellate matters
- Successfully argued before 6th Circuit Court of Appeals
- Drafted 6th Circuit Appellate Briefs
- Maintained daily client contact and management of case files

COLLEY, SHROYER & ABRAHAM Columbus, Ohio

Feb. 03-Nov. 03 *Associate*

- Negotiated settlements on personal injury matters
- Drafted appellate briefs

Apr. 97-Nov. 97 *Law Clerk*

- Prepared memorandum contra in response to motion for summary judgement
- Drafted demand letters and complaints

Nov. 97-May. 00 FRANKLIN COUNTY PROSECUTOR'S OFFICE Columbus, Ohio

Assistant Prosecuting Attorney

- Tried over 25 cases, including Delinquencies, Abuse, Neglect, and Dependencies
- Negotiated plea bargains on average of 5-10 cases daily
- Worked directly with victims and police; subpoenaed witnesses as necessary
- Prepared and presented cases to the Grand Jury for indictment

Sept. 96-May. 97 HABITAT FOR HUMANITY Columbus,

Ohio

Legal Research

- Performed pro bono research of housing and lending issues

EDUCATION & MEMBERSHIPS:

CAPITAL UNIVERSITY LAW SCHOOL Columbus, Ohio

Juris Doctorate, Cum Laude (May, 1998)

HONORS:

Order of the Barristers

CALI Academic Excellence Award

Vice Dean, Delta Theta Phi Law Fraternity

ACTIVITIES:

Order of the Curia

National Moot Court Team

Legal Study in Florence, Italy

Vice President, Law Students for the Advancement of Ethics and Professionalism

OHIO UNIVERSITY Athens, Ohio

Bachelor of Science in Communication

Graduated Cum Laude; Recipient of Outstanding Senior Award

COLUMBUS BAR ASSOCIATION - Member

SOCIAL SECURITY DISABILITY COMMITTEE of the Columbus Bar Association - Member

Dustin R. Garris

191 E. Gates St. Columbus, OH 43206 • 614-937-2274 • [redacted]

BAR ADMISSION

State of Ohio, November 2010
Supreme Court ID: 0086291
Actively practicing in all 88 counties
Member of the Ohio State Bar Association, Columbus Bar Association, and American Bar Association

EMPLOYMENT HISTORY

The Law Office of Eric A. Jones, LLC, Columbus, OH
Attorney (November 2010-Present)
Law Clerk (December 2009-November 2010)

- Research and prepare various motions, briefs, and responses for civil and collection cases.
- Negotiate settlements in personal injury and collection cases.
- Conduct interviews and ascertain potential clients.
- Prepare for and handle hearings regarding workers' compensation, social security, and small claims matters.

EDUCATION

CAPITAL UNIVERSITY LAW SCHOOL, Columbus, OH
Juris Doctor, 2010

- Successfully completed externship program as well as a full academic year in the Legal Clinic
- Dean's List

THE OHIO STATE UNIVERSITY, Columbus, OH
Bachelor of Science in Business Administration, 2007

- Accounting Major
- Dean's List

LEGAL EXPERIENCE

CAPITAL UNIVERSITY LAW SCHOOL LEGAL CLINIC
Certified Legal Intern (August 2009-May 2010)

- Negotiated plea agreements with prosecutors.
- Researched, composed, and filed motions and responses on behalf of clients.
- Drafted and executed wills.
- Represented various clients with domestic issues including child custody and divorce.

EXTERNSHIP IN THE FRANKLIN COUNTY COMMON PLEAS COURT
Extern to the Honorable Judge Daniel Hogan (Summer 2009)

- Reviewed motions and drafted summary judgment opinions pertaining to civil matters.
- Observed criminal and civil trials.

Doc. 48-12 **EXHIBIT C7**

[Letterhead of
Wiles, Boyle, Burkholder & Bringardner]

May 1, 2012

Mike DeWine
Ohio Attorney General
Ohio Attorney General's Office
Legal Services Section
30 E. Broad St., 17th Fl.
Columbus, OH 43215

Re: Ohio Attorney General's Office Request for Qualification for Special Counsel for Fiscal Year 2013

Dear Mr. DeWine:

I am writing this to comply with the requirement that we submit the Request for Qualification with a transmittal letter. This letter hereby affirms that all statements are true and accurate.

Very truly yours,

/s/ Mark J. Sheriff
Mark J. Sheriff
300 Spruce St., Floor 1
Columbus, OH 43215
(T) 221-5216
(F) 221-0624
msheriff@wileslaw.com

[Letterhead of
Wiles, Boyle, Burkholder & Bringardner]

May 1, 2012

Mike DeWine
Ohio Attorney General
Ohio Attorney General's Office
Legal Services Section
30 E. Broad St., 17th Floor
Columbus, OH 43215

Re: Ohio Attorney General's Office Request for Qualification for Special Counsel for Fiscal Year 2013

Dear Mr. DeWine:

I am responding to the Request that our office submit certain information via electronic mail on or before the close of business on Friday, May 4, 2012 with respect to our appointment and/or continued appointment as Special Counsel for the Attorney General's Office.

Mark J. Sheriff is now designated as Special Counsel. I am the attorney and Partner in our office in charge of our Collection Group and basically handle and supervise the handling of all the collection matters we have received from the Attorney General's Office over the last several years. I have specialized in the area of collection for the last 41 years or virtually my entire career. I am a graduate of Oho State University and earned by J.D. degree from the University of Cincinnati, College of Law, with honors, where I was also Order of the Coif as well as Research and Survey Editor for the Law Review. I am Past President of the Commercial Law

League of America and past Chairman of the Creditor's Rights Section of the Commercial Law league of America and I am also Chairman of the League's Finance Committee. I will be sworn in as Recording Secretary of the Commercial Law League of America the first week of May 2012 and will serve a one (1) year term on the Board of Governors. I previously served as an Advisor to the National conference of Commissioners of Uniform State Laws with respect to revision of Article 2 of the U.C.C. I am currently certified as a Creditor's rights Specialist by the American Board of Certification and also served on both the Board and Executive Counsel of that Organization. I am a member of the Columbus Bar Association, the Ohio State Bar Association, District of Columbia Bar Association, the American Bar Association and the American Association for Justice previously known as the American Trial Lawyers Association. I am an active member of the Banking, Commercial Law and Bankruptcy Committee of the Ohio State Bar Association. I am also a Charter Member of the Ohio Creditors Attorney Association. I have an AV rating in Martindale-Hubbell which I have had for the last 20 years or longer. Additionally, I have also been recognized the last six to seven years by *Ohio Super Lawyers Magazine* as one of the top business litigators in the State of Ohio. I am a frequent speaker and have presented programs at the National Meeting of the American Bar Association, the National Association of Credit Managers (NACM) and the National Conference of Bankruptcy Judges as well as the Commercial Law League of America and the Ohio State Bar Association. I practice exclusively in the areas of Commercial Law,

Business, Civil and Corporate Litigation, Commercial and Retail Collections, personal and financial counseling and planning.

I was previously the Chairman of the Collection Department for the law firm of Luper, Sheriff & Neidenthal from 1974 through 2002 before my affiliation with the law firm of Wiles, Boyle, Burkholder & Bringardner Co., LPA in August 2002. I served on the Upper Arlington Board of Education from 1984 to 2000 and was President or Vice President 9 out of the 16 years I served. I also served in the United States Army from 1971 through 1973 and was honorably discharged with the rank of Captain. I was assigned to the Judge Advocates General's Office and handled collection matters for servicemen while I was in the Army.

Our office would like the opportunity to represent the Attorney General's Office in all matters related to collections, including all types of taxes, student loans, and Medicaid recoveries. We have handled all of those types of matters from the inception of our appointment as Special Counsel for the Ohio Attorney General's Office.

Very truly yours,

/s/ Mark J. Sheriff
Mark J. Sheriff

A. Required Documentation (available on our web site at:

www.OhioAttorneyGeneral.gov/CollectionsForms.

- o Cover Letter – Not to exceed two pages. Shall affirm that all statements are true and accurate. Should clearly communicate your knowledge, experience and ability to perform the work requested. Shall include the signer's mailing address, telephone number, fax number and e-mail address.
- o Affidavit of Eligibility (Please see attachment 1)
- o Declaration of Material Assistance (Please see Attachment 2)
- o Vendor ID & W-9 forms (Please see Attachment 3)
- o Firm Demographics Form (Please see Attachment 4)
- o Current Bureau of Workers' Compensation certificate (Please see Attachment 5)
- o Affirmative Action Plan Verification Form with the Ohio Department of Administrative Services (Please see Attachment 6)

B. Certifications Required

You must provide the following certifications to be considered for appointment as a Collections Special Counsel.

1. A copy of your current professional liability insurance demonstrating coverage by a company authorized to do business in Ohio with a Best rating of at least "A" (Include as an attachment to your response).

Please see attachment 7

2. Ethics and Malpractice Certification that:

   a. No ethics complaints have been filed against you or your law firm within the last five (5) years that did not result in dismissal.

      Please see attachment 8

   b. No legal malpractice actions are pending or have been adversely decided against you or your law firm within the last five (5) years.

      Please see attachment 8

If such complaints or actions have occurred, please provide an explanation of facts and outcome

3. Certification that each attorney in your firm who would be involved with claims and cases assigned to you as Collections Special Counsel is a member in good standing of the Ohio bar, federal bar and/or state bar in which he or she has been admitted to the practice of law (please identify other states), and has not been disqualified to practice law in any jurisdiction or forum.

   Please see attachment 8

4. Certification that each attorney in your firm who would be involved with claims and cases assigned to you as Collections Special Counsel is not subject to an "unresolved" finding for recovery under R.C. 9.24. If the warranty is deemed to be false, the Retention Agreement will be deemed void ab initio, and Special Counsel may be required to repay to

the State of Ohio any funds paid under the Retention Agreement.

Please see attachment 8

C. <u>Disclosure of Conflict of Interest and other Collection Matters</u>

1. A list and explanation of any claims and lawsuits brought against any member of your firm, including any attorney or employee, alleging a violation of the Fair Debt Collection Practices Act within the last five (5) years.

   There have been no lawsuits filed against any member of our firm within the last five (5) years for violation of the Fair Debt Collection Practices Act. Additionally, there have been no claims made requiring us to disclose or submit them to our malpractice carrier in the past five (5) years.

2. A list and description of the systems you have in place to screen incoming accounts and claims to assure that your firm and the particular counsel who has accepted an appointment on a state collection matter does not have a conflict of interest, including representation of a private client in a matter against or competing with that of the State of Ohio.

   Conflict checks are run on our computer systems on any and all claims received by both the State of Ohio and/or any other client. We are able to immediately identify any conflicts of interest using this system.

We have never had any problems in that regard.

3. List and describe those matters where your past or present clients have an interest adverse to or competing with that of the State of Ohio.

None.

4. List and describe, including case caption, case number and court of those matters where you have, within the last five (5) years brought an action against or represented any State Client in a collection matter or bankruptcy proceeding. Describe the scope of that representation, the client involved and whether the representations are closed or current.

There have been no cases in the last five (5) years where we have brought an action against any state client in a collection matter or bankruptcy proceeding.

D. <u>Disclosure of Known Conflicts of Interest: Non-Collection Matters</u>

1. Outside of collection or bankruptcy matters, have you brought or currently have a claim or cause of action against the State of Ohio or any State Client? Provide a list of all such matters, including the case caption, case number and court, the scope of the representation and the name of your client and the name of the State Client with whom your client is adverse. Please designate in your response which representations are closed and which are current.

None.

2. List all employees and attorneys of your firm that have previously been employed by the Attorney General or a State Client at any time, including the name of the State Client, the duration of employment and position.

None.

3. List all employees and attorneys of your firm who are indebted to the State of Ohio and the case number, account numbers and State Client to whom the financial obligation is owed, and whether the account is in good standing, or certified as a past due debt to the Attorney General, other than current tax liabilities.

None.

E. Continuing Legal Education

List and describe those Continuing Legal Education ("CLE") seminars you and members of your firm have attended dealing with collection or bankruptcy law topics, including fair debt collection, within the last twenty-four (24) months. State the title, location, date and number of CLE credits awarded for the seminar and who attended.

Please see attachment 9

Section 5: Practice Areas

Please check each practice in which you are both qualified to practice and interested in representing State Clients:

_ **Bankruptcy Collection Matters** (If applying for Bankruptcy Counsel list the

bankruptcy courts where you have been admitted to practice and the courts in which you have actively and continuously represented clients .)

✓**General State Collections** (If you are seeking appointment to handle personal income tax or unemployment compensation fraud accounts, you must complete an Ohio SPR, available at www.OhioAttorneyGeneral.gov/CollectionsForms , and be able to demonstrate compliance with *Publication 1075: Tax information Security Guidelines for Federal, State and Local Agencies.* A copy of this publication is available at IRS.gov.)

✓**Medicaid Estate Recovery**

_**Subrogation Collections**

✓**University Collections** (If you are seeking appointment to handle claims or matters involving university debt, please explain the protections your office has in place to assure compliance with FERPA privacy practices.)

_**University Medical Center Collections** (If you are seeking appointment to handle claims or matters involving medical bills, workers' compensation, crime victims compensation, or other matters involving HIPAA, please explain the protections your office has in place to assure compliance with HIPAA privacy practices.)

✓**Local Debt** (If you are seeking appointment to handle local debt and you are currently under contract to collect for any local

government agency, board, commission or political subdivision, you may not receive assignments of local debt.)

Section 6: Experience and Resources

1. Describe your and your firm's past representation as special or outside counsel for the State of Ohio, including any State Clients represented.

   We have been doing work for the Attorney General's Office in excess of ten (10) years. During that time we have handled thousands of cases where we have filed suit or entered in an appearance in a bankruptcy proceeding on behalf of the State of Ohio. The Attorney General's Office has access to all of the files that we are handling and have handled on the CUBS System where we regularly and routinely put information.

2. Summarize the knowledge, expertise and experience you have in matters of state government collection, including particular State Clients and areas of practice.

   Please see attachment 9 – Mark Sheriff

   a. Do you have any collection experience with non-state clients?

      Yes, extensive experience over the last 40 years.

   b. Will the State of Ohio be your sole client?

      No.

3. If your firm has previously collected for any other local government agencies, boards, commissions or political subdivisions, provide a list of your clients during the previous five (5) year period.

   None.

4. If applying for Bankruptcy Counsel list the bankruptcy courts where you have been admitted to practice, and the bankruptcy courts in which you have actively and continuously represented clients. Please describe the clients you currently represent in bankruptcy (i.e. creditors, debtors, etc...).

   N/A

5. Provide the number of collection matters your firm currently handles on an annual basis; differentiate between State Clients and other clients.

   We handle over 3,000 collection matters on an annual basis for non-state clients. The State of Ohio would have computer records of the number of claims that they have sent us on an annual basis which has been numerous.

6. List and describe how you will ensure that the Attorney General and the State Clients have representation and counsel if the primary attorney on a given matter is temporarily unavailable.

   We have several other very experienced attorneys who specialize in collections and litigation who are employed by our office

who have the ability to step in and cover any given matter when special counsel is temporarily unavailable.

7. For each attorney expected to work under this assignment, please provide the following information:

Please see attachment 9

a. A detailed description of each attorney's collection and bankruptcy experience.

b. Years of collection law experience.

c. Percent of practice related to collection law matters.

d. Percent of practice in state court and percent of practice in federal court.

e. Attorney registration number, the names of each state and federal bar to which he or she is admitted to practice; and the courts before which he or she is actively practicing.

8. List and describe your collections computer system, including any software, cloud based computing, Integrated Voice Response, virtual environment, and/or VoIP systems utilized to collect debt. Any system that holds, processes, receives, sends, or otherwise

touches tax information must be IRS Publication 1075 compliant.

9. Describe how your existing systems provide the following:

   a. Ability to screen incoming accounts for potential conflicts with the Attorney General and any State Client.

      Our computer system has the ability to cross-reference all State of Ohio claims with other matters handled in our office and we routinely run conflict checks.

   b. Ability to segregate state accounts from the other business of the firm.

      All state accounts are separately segregated.

   c. Ability to document collection efforts.

      All collection efforts are documented and are able to be uploaded on the State of Ohio computer system.

   d. Ability to image documents.

      Yes, we have the ability to image documents and do it on a routine basis on all documents received.

   e. Your phone systems, including auto-dialer, call recording and monitoring capabilities.

      We do not use any auto dialers. We do not have call recording and monitoring capabilities.

   f. Ability to generate, track and retain records documenting collection activities, and share

these transactions electronically with the Attorney General.

We have full ability to do that and we have been doing that for several years.

g. Other systems utilized in collection of debt.

Access to credit reports, Accurint reports and skip tracing among others.

h. Legal researching systems.

We subscribe to Westlaw and have the ability to do full research on any and all legal issues.

i. Existing interfaces to update the Attorney General's Collections System.

All of those existing interfaces do exist and have been in operation for the last ten years with the Attorney General's Office.

j. Legal researching systems, such as Casemaker, Lexis/Nexis, Westlaw or other researching system.

See response to question (h) above.

k. List your skip tracing tools.

Accurint and Credit Reporting HNCs as well as independent research of public records.

10. Provide a list of particular counties of the state in which you wish to work.

We handle the entire state of Ohio.

11. Disaster Recovery Plan - Please attach a copy of your data disaster recovery plan.

Your plan should describe how you maintain security for you data and list any vendors who may have access to your data.

Please see attachment 10

Section 7: Curriculum Vitae

Please attach the curriculum vitae of each attorney or paralegal in your firm who would be involved with work assigned as Collections Special Counsel. Provide the following information:

1. Identify whether you or any of your partners or associates is an elected official or member of any board or commission at the state or local level. Describe the position(s) with specificity.

   Associate Jim Hughes is currently an Ohio State Senator.

2. For each person that will be assisting with collection work, please include: attorney registration number; the names of each state and federal bar to which he or she is admitted to practice; the courts before which he or she is actively practicing; bar association memberships; bar committee memberships and title or position in each, if any; professional and civic organizations; and any special awards or honors received.

   Please see attachment 9

ATTACHMENT NO. 1

[Letterhead of Mike DeWine
Ohio Attorney General]

AFFIDAVIT OF ELIGIBILITY FOR SPECIAL COUNSEL APPOINTMENT

STATE OF Ohio:

COUNTY OF Franklin:

The undersigned, being first duly sworn, deposes and says as follows:

1. I am under consideration for an appointment as outside counsel by Ohio Attorney General Mike DeWine, and make this affidavit to certify my eligibility for such an appointment.

2. I hereby certify that neither I nor my law firm is disqualified under Ohio Revised Code § 3517.13 from being awarded a contract by Attorney General Mike DeWine.

3. I certify that neither I nor any of my partners, or officers, directors, or shareholders of my firm nor the spouses of any such person have made contributions in excess of the limitations specified in R.C. § 3517.13.

4. I recognize that, pursuant to R.C. § 3517.992(R), whoever violates division (I) or (J) of R.C. § 3517.13 shall be fined up to one thousand dollars, and that any contract awarded to me in violation of either of those divisions may be rescinded.

/s/ Michael L. Close
SIGNATURE

Wiles, Boyle Burkholder & Bringardner
FIRM NAME

Michael L. Close
PRINTED NAME

Sworn to before me, and subscribed in my presence this 1st day of May, 2012.

/s/Deborah A. Sekerak
Notary Public, State of Ohio

[notary seal]

ATTACHMENT NO. 2

DECLARATION OF MATERIAL ASSISTANCE ("DMA")

OHIO DEPARTMENT OF PUBLIC SAFETY

OHIO HOMELAND SECURITY
http://www.homelandsecurity.ohio.gov

GOVERNMENT BUSINESS AND FUNDING CONTRACTS
In accordance with section 2909.33 of the Ohio Revised Code

DECLARATION REGARDING MATERIAL ASSISTANCE/NONASSISTANCE TO A TERRORIST ORGANIZATION

This form serves as a declaration by an applicant for a government contract or funding of material assistance/nonassistance to an organization on the U.S. Department of State Terrorist Exclusion List ("TEL"). Please see the Ohio Homeland Security Division Web site for a copy of the TEL.

Any answer of "yes" to any question, or the failure to answer "no" to any question on this declaration shall serve as a disclosure that material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List has been provided. Failure to disclose the provision of material assistance to such an organization or knowingly making false statements regarding material assistance to such an organization is a felony of the fifth degree.

For the purposes of this declaration, "material support or resources" means currency, payment instruments, other financial securities, funds, transfer of funds, and financial services that are in excess of one hundred dollars, as well as communications, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

BUSINESS ORGANIZATION NAME Wiles, Boyle, Burkholder & Bringardner Co. LPA			PHONE (614) 221-6216
BUSINESS ADDRESS 306 Spruce St			
CITY Columbus	STATE OH	ZIP 43215	COUNTY Franklin
PRINCIPAL OFFICIAL'S NAME Robert E. W. Sandor			TITLE Administrator

DECLARATION

In accordance with section 2909.33 (A)(2)(b) of the Ohio Revised Code
For each question, indicate either "yes," or "no" in the space provided. Responses must be truthful to the best of your knowledge.

1. Are you a member of an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☒ No
2. Have you used any position of prominence you have with any country to persuade others to support an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☒ No
3. Have you knowingly solicited funds or other things of value for an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☒ No
4. Have you solicited any individual for membership in an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☒ No
5. Have you committed an act that you know, or reasonably should have known, affords "material support or resources" to an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☒ No
6. Have you hired or compensated a person you knew to be a member of an organization on the U.S. Department of State Terrorist Exclusion List, or a person you knew to be engaged in planning, assisting, or carrying out an act of terrorism? ☐ Yes ☒ No

Check Here If You Request the Confidentiality Be Strictly Construed. _____ A

If an applicant is prohibited from receiving a government contract or funding due to a positive indication on this form, the applicant may request the Ohio Department of Public Safety to review the prohibition. Please see the Ohio Homeland Security Web site for information on how to file a request for review.

CERTIFICATION

I hereby certify that the answers I have made to all of the questions on this declaration are true to the best of my knowledge. I understand that if this declaration is not completed in its entirety, it will not be processed and I will be automatically disqualified. I understand that I am responsible for the correctness of this declaration. I understand that failure to disclose the provision of material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List, or knowingly making false statements regarding material assistance to such an organization is a felony of the fifth degree. I understand that any answer of "yes" to any question, or the failure to answer "no" to any question on this declaration shall serve as a disclosure that material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List has been provided by myself or my organization. If I am signing this on behalf of a company, business or organization, I hereby acknowledge that I have the authority to make this certification on behalf of the company, business or organization referenced on page 1 of this declaration.

APPLICANT SIGNATURE	DATE
X	4/18/2012

ATTACHMENT NO. 3

VENDOR INFORMATION FORM

All parts of the form must be completed by the vendor. Incomplete forms will be returned. The information must be legible. Ensure this is the latest version of the form at www.ohioshareddservices.ohio.gov.

SECTION 1 – PLEASE SPECIFY TYPE OF ACTION

☐ NEW (W-9 OR W-9/CLA FORM ATTACHED) ☐ CHANGE OF CONTACT PERSON/INFORMATION

☐ ADDITIONAL ADDRESS – (A COPY OF AN INVOICE OR A LETTER INCLUDING THE ADDRESS IS REQUIRED)

☐ CHANGE OF ADDRESS – (PLEASE PROVIDE OLD ADDRESS BELOW OR ATTACH LETTER)

ADDRESS TO BE INACTIVATED:

☐ CHANGE OF TIN (W-9 & LETTER OF CLARIFICATION OF CHANGE, WHICH INCLUDES NEW & OLD TIN IS REQUIRED)

☐ CHANGE OF NAME (W-9 & LETTER OF CLARIFICATION OF CHANGE, MUST INCLUDES NEW & OLD NAME IS REQUIRED)

☐ CHANGE OF PAY TERMS ☐ CHANGE OF PO DISPATCH METHOD ☐ OTHER _____

SECTION 2 – PLEASE PROVIDE VENDOR INFORMATION

LEGAL BUSINESS OR INDIVIDUAL NAME: (MUST MATCH W-9 OR W-9/CLA Form)
WILES, BOYLE, BURKHOLDER & BRINGARDNER CO., LPA

BUSINESS NAME, TRADE NAME, DOING BUSINESS AS (IF DIFFERENT THAN ABOVE)

FEDERAL EMPLOYER ID (FEIN) OR SOCIAL SECURITY NUMBER (Used [redacted]

SECTION 3 – PLEASE PROVIDE COMPLETE ADDRESS

ADDRESS:		COUNTY:
300 SPRUCE ST		FRANKLIN
CITY:	STATE:	ZIP CODE:
COLUMBUS	OH	43215

SECTION 4 – ADDITIONAL ADDRESS (IF MORE THAN 1 ADDRESS, PLEASE INCLUDE A SEPARATE SHEET)

ADDRESS:		COUNTY:
CITY:	STATE:	ZIP CODE:

0894 5637 REV. 11/1/2011

SECTION 5 – CONTACT INFORMATION & PERSON TO RECEIVE PURCHASE ORDER

NAME: ROBERT E. W. SANDER

WEBSITE: WWW.WILESLAW.COM

PHONE: 614 221-5216 | FAX: 614 221-3692 | EMAIL: RSANDER@WILESLAW.COM

PREFERRED METHOD OF BEING CONTACTED: (CHECK ONE) ☐ PHONE ☒ EMAIL

SECTION 6 – INDIVIDUAL TO RECEIVE EMAIL NOTICE OF RFI EVENTS - A USER ID & PASSWORD WILL BE SENT TO THE EMAIL ADDRESS BELOW

NAME: ROB SANDER

EMAIL: RSANDER@WILESLAW.COM | PHONE: 614 221-5216

TO ADD AN ADDITIONAL OR REPLACE A STRATEGIC SOURCING CONTACT PERSON

☒ ADDITIONAL CONTACT PERSON ☐ REPLACE CONTACT PERSON (WILL BE MARKED INACTIVE)

NAME: NEIL SANDER

EMAIL: NSANDER@WILESLAW.COM | PHONE: 614-221-5216

SECTION 7 – PAYMENT TERMS (PLEASE CHECK ONE – IF NONE IS SELECTED THEN NET 30 WILL APPLY)

☐ 2/10 NET 30 ☒ NET 30 ☐ NET 45 ☐ NET 60 ☐ NET 90

SECTION 8 – PURCHASE ORDER DISTRIBUTION – OTHER THAN USPS MAIL

EMAIL OR FAX: EMAIL

SECTION 9 – PLEASE SIGN & DATE

PRINT NAME: Robert E.W. Sander

SIGNATURE: (TYPED SIGNATURES NOT ACCEPTED AT THIS TIME) | DATE: 4/18/2012

SECTION 10 – STATE OF OHIO AGENCY CONTACT (AGENCY USER RECEIVING PAYMENT FROM)

AGENCY CONTACT NAME/EMAIL/PHONE:

COMMENTS:

Note: This document contains sensitive information. Sending via non-secure channels, including e-mail and fax can be a potential security risk

SUBMIT FORM TO:

Mail: Ohio Shared Services
Attn: Vendor Maintenance
P.O. Box 182880 Columbus, OH 43218-2880

Email: vendor@ohio.gov

Fax: 1 (614) 466-1282

QUESTIONS? PLEASE CONTACT:

Phone: 1-877-OH-OSSI (1-877-644-6774)
1 (614) 466-4761

Website: www.ohiochoose.biz/vendor

Email: vendor@ohio.gov

OSM-5657

REV. 11/1/2011

Form **W-9** (Rev. December 2011)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Print or type
See Specific Instructions on page 3.

Wiles, Boyle, Burkholder & Bringardner Co. LPA

Business name/disregarded entity name, if different from above

Wiles, Boyle, Burkholder & Bringardner Co., LPA

Check appropriate box for federal tax classification:
☐ Individual/sole proprietor ☑ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶

☐ Exempt payee

☐ Other (see instructions) ▶

Address (number, street, and apt. or suite no.)
100 Spruce St

Requester's name and address (optional)

City, state, and ZIP code
Columbus, Ohio 43215

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN on page 3.

Social security number: ___ - ___ - ____

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Employer identification number: [redacted]

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here | Signature of U.S. person ▶ [redacted] Date ▶ 4/18/12

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

ATTACHMENT NO. 4

[Letterhead of Mike DeWine
Ohio Attorney General]

DEMOGRAPHICS

Attorney Name
Firm Name

Please provide our office with information on the composition of your staff. Please include totals for all employees, partners, associates, of counsel, shareholders and members.

	Nationwide	Ohio only
Total Number of Employees	61	61
Total Number of Women	34	34
% of Women Employees	5500%	5500%
Total Number of Minorities	3	3
% of Minority Employees	5%	5%

Is your firm minority owned? Yes ❑ No ☒

Is your firm female owned? Yes ❑ No ☒

ATTACHMENT NO. 5

Ohio | Bureau of Workers' Compensation

30 W. Spring St.
Columbus, OH 43215

Certificate of Premium Payment

This certifies the employer listed below has paid into the Ohio State Insurance Fund as required by law. Therefore, the employer is entitled to the rights and benefits of the fund for the period specified. For more information, call 1-800-OHIOBWC.

This certificate must be conspicuously posted.

Policy No. and Employer	Posted Specified Below
349105	01/01/2012 Thru 09/21/2012

WILES BOYLE BURKHOLDER & BINGARDNER CO
309 SPRUCE ST
COLUMBUS, OH

Stephen Buehrer
Administrator/CEO

You may reproduce this certificate as needed.

Ohio Bureau of Workers' Compensation

Required Posting

Effective Oct. 13, 2004, Section 4123.54 of the Ohio Revised Code requires notice of rebuttable presumption. Rebuttable presumption means an employee may dispute or prove untrue the presumption (or belief) that alcohol or a controlled substance not prescribed by the employee's physician is the proximate cause (main reason) of the work-related injury.

The burden of proof is on the employee to prove the presence of alcohol or a controlled substance was not the proximate cause of the work-related injury. An employee who tests positive or refuses to submit to chemical testing may be disqualified for compensation and benefits under the Workers' Compensation Act.

Ohio | Bureau of Workers' Compensation

You must post this language with the certificate of premium payment.

BWC-7218 (Rev. 10/13) 7/7/08

ATTACHMENT NO. 6

[Letterhead of Ohio
Department of Administrative Services]

4/16/2012

Michael Close
Wiles Boyle Burkholder & Bringardner Co, LPA
300 Spruce St
Columbus, OH 43215

Dear Michael Close:

SUBJECT: Affirmative Action Program Verification
Effective Dates: 04/16/2012 through 04/15/2013

As you are aware, a company desiring to participate in the State of Ohio procurement process must demonstrate to this Office that the company has complied with all applicable federal and state affirmative action programs for at least the last year.

After careful review of the affirmative action documentation you provided to this office, the Equal Opportunity Division of the Ohio Department of Administrative Services has determined that Wiles Boyle Burkholder & Bringardner Co, LPA satisfactorily meets the requirements set forth in Section 125.111(B) of the Ohio Revised Code as is required for participation in the State of Ohio procurement process. This letter shall serve as the state's official certification to this effect.

Please note that the Equal Opportunity Division may conduct an audit of the Wiles Boyle Burkholder & Bringardner Co, LPA's affirmative action program to

determine the company's continued compliance with Section 125.111 of the Ohio Revised Code.

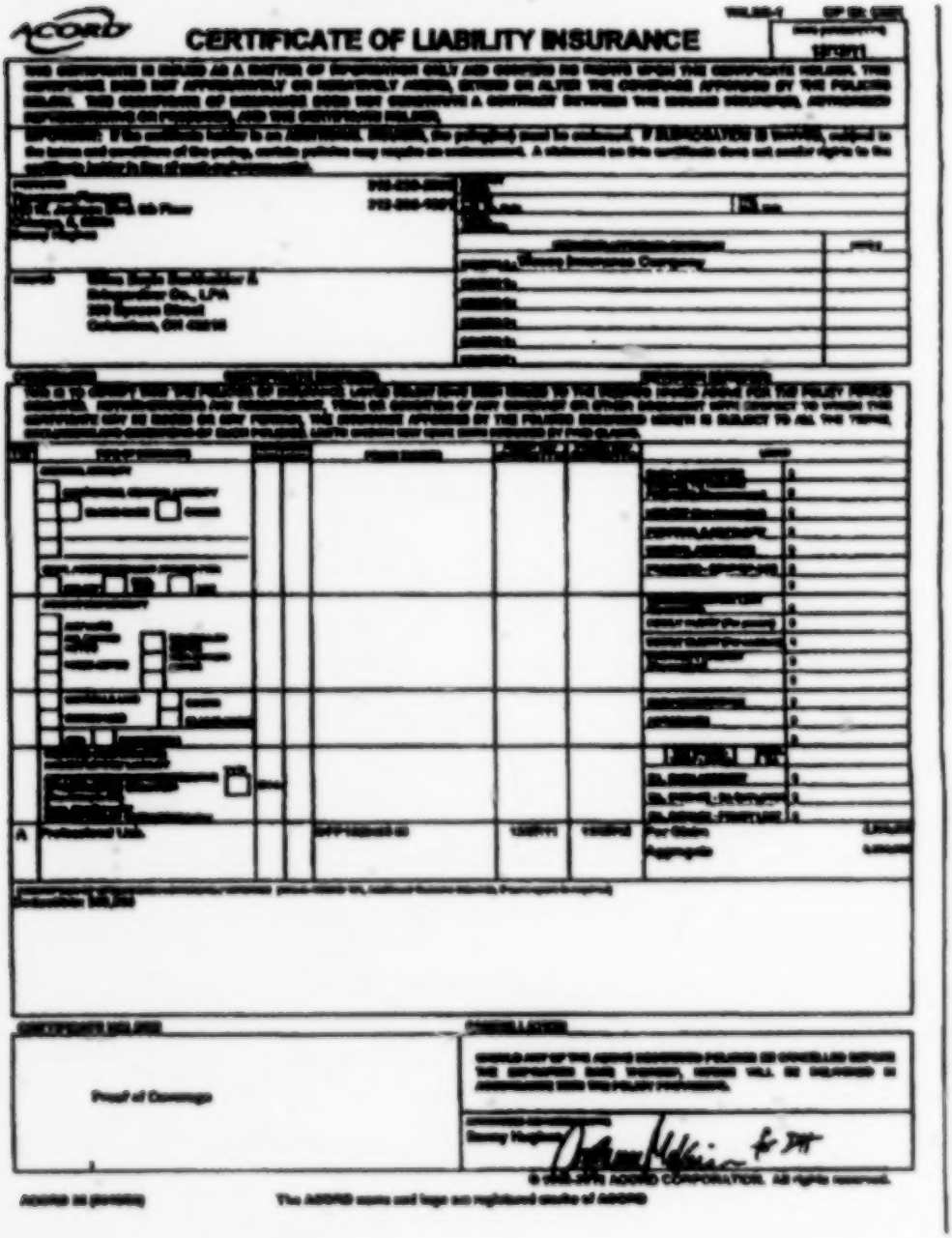
As the Affirmative Action Program Verification indicates, the State of Ohio values diversity among its business partners and their employees, and hopes to see them grow and prosper. Consequently, we are delighted to be able to assist your company by approving your affirmative action program efforts. If you need any assistance or have questions about the Affirmative Action Program Verification, its objectives or its operation, please contact the Equal Opportunity Division's Construction Compliance Unit at 614.466.8380.

Sincerely,

/s/ Richard M. Scott

Richard M. Scott
State EEO Coordinator
Ohio Department of Administrative Services

ATTACHMENT NO. 7



ACORD

CERTIFICATE OF LIABILITY INSURANCE

Proof of Coverage

ATTACHMENT NO. 8

[Letterhead of Mike DeWine
Ohio Attorney General]

Certifications

1. I certify that all Wiles Boyle Burkholder & Bringardner Co, LPA, attorneys who will bill for any Ohio Attorney General assigned matter are members in good standing with the Ohio Bar and/or with other state bars to which they have been admitted to practice and have not been disqualified from the practice of law in any other jurisdiction or forum.

/s/ Michael Close	5/1/2012
Signature	Date

Michael L. Close
Printed Name

2. I certify that neither Firm Name nor any of its proposed team members for any Ohio Attorney General assigned matters are, at this time, unable to represent the Office of the Ohio Attorney General due to a disqualification under O.R.C. § 3517.13 (campaign contributions).

/s/ Michael Close	5/1/2012
Signature	Date

3. **PLEASE CERTIFY TO EITHER SECTION A OR SECTION B BELOW:**

A. I certify that no legal malpractice actions are pending or have been adversely decided against me or my law firm within the last five years. I further certify that there have been no judgments, material or otherwise, against me or Firm Name in the past five (5) years nor are there any unresolved findings pursuant to O.R.C. § 9.24 (finding for recovery). There have been no citations or liens from any federal, state or local agency against me or my firm in the past five (5) years.

/s/ Michael Close	5/1/2012
Signature	Date

B. I certify that, to my knowledge, the following are the only actions pending or adversely decided against me and/or my law firm within the last five years:

*See attached memo of explanation.

_____	5/1/2012
Signature	Date

ATTACHMENT NO. 9

CURRICULUM VITAE OF MARK J. SHERIFF

Mark J. Sheriff is the Chairman of the Collection Department for Wiles, Boyle, Burkholder & Bringardner Co., LPA, Columbus, Ohio and has specialized in the area of collections for more than 30 years. He is a graduate of Ohio State University and earned his J.D. degree from the University of Cincinnati College of Law, with honors, where he was also Order of the Coif as well as Research and Survey Editor for the Law Review. He is past President of the Commercial Law League of America and is currently the Treasurer of the Creditors Rights Section of the Commercial Law League and also serves on the League's Finance Committee as well as several other committees. Additionally, he previously served as an Advisor to the National Conference of Commissioners of Uniform State Law with respect to revision of Article 2 of the U.C.C. He is currently certified as a Creditor's Rights Specialist by the American Board of Certification and also serves on both the Board and Executive Council of that organization. He is a member of the Columbus Bar Association, The Ohio State Bar Association, The District of Columbia Bar Association, The American Bar Association and The American Association for Justice previously known as The American Trial Lawyers Association. He is an active member of the Banking, Commercial Law and Bankruptcy Committee of the Ohio State Bar Association. He is also a Charter Member of the Ohio Creditor Attorney Association. He has a AV rating in Martindale-Hubbell and has also been recognized by last three years by Ohio Super Lawyers Magazine as a

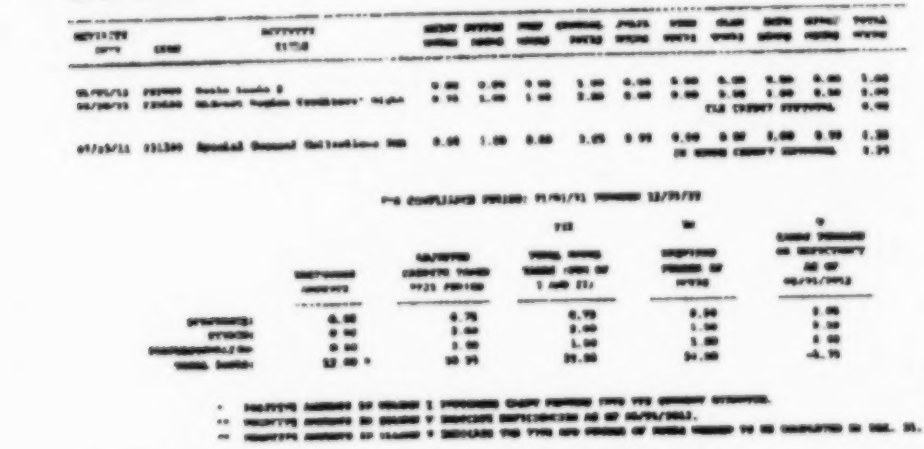
Business Litigator. He is a frequent speaker and has presented programs at the National Meeting of the American Bar Association, The National Association of Credit Managers (NACM) and the NCBJ as well as the Commercial Law League of America. Mr. Sheriff practices in the areas of commercial law; business, civil and corporate litigation, commercial and retail collections; personal and financial counseling and planning.

Additionally, Mr. Sheriff was previously the Chairman of the Collection Department for the law firm of Luper, Sheriff & Neidenthal from 1974 through 2002 before his affiliation with Wiles, Boyle, Burkholder & Bringardner Co., LPA in August 2002. He served on the Upper Arlington Board of Education from 1984 – 2000 and was President or Vice President eight out of the sixteen years he served. He served in the United States Army from 1971 through 1973 and was honorably discharged with the rank of Captain.

My Information | Modify Information | Register Online | CLE Transcript | Change Password | Contacts | LOGOUT

| Add / Edit Course Hours | CLE Requirements | Print Transcript | Instructions |

Select Biennium: 2013



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Accept Final Transcript - Once you are satisfied that your Final Transcript is complete, please select Accept Final Transcript and follow the prompts. This will fulfill your obligation to file a Final Reporting Transcript by January 31 of your Reporting Year. To be deemed timely, your electronically filed Final Reporting Transcript must be submitted on or before 11:59 pm Eastern Time, January 31st of your reporting year.

View Previous Transcripts - You can also view your past biennial reporting periods by selecting the appropriate reporting period in the drop down menu. Records for past reporting periods are complete and official. Credit cannot be added to a closed biennium.

View New Lawyers Training Record - You can also view your New Lawyers Training transcript by selecting the appropriate choice in the drop down menu.

Print Transcript - A printer-friendly copy of your transcript is available by clicking on the "Print

Transcript" link.

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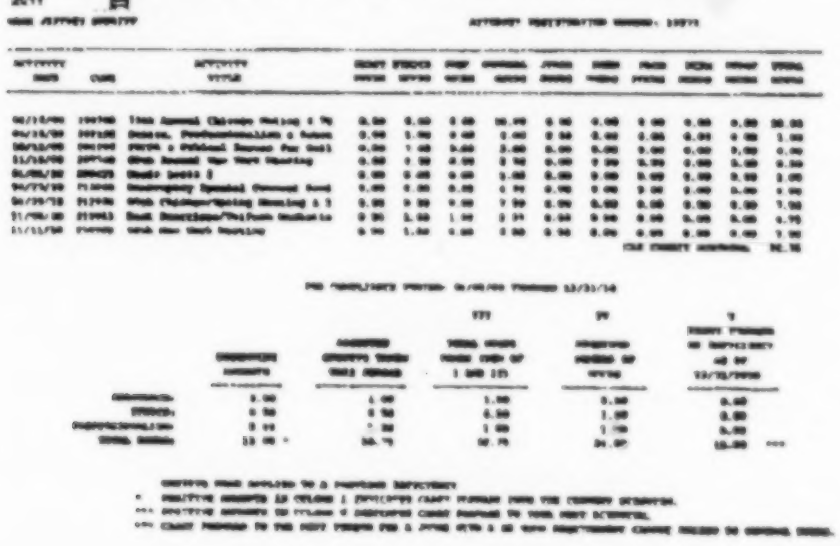
For more information about Continuing Legal Education in Ohio and to access lists of approved CLE activities click here.

| | | CLE Requirements | Print Transcript | Instructions | Select Biennium:
2011



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Neil C. Sander

Personal

Neil C. Sander
34 years old
Married, 2 children

Education

Capital University Law School, Columbus, Ohio
Juris Doctorate, 2004

The Ohio State University, Columbus, Ohio
Bachelor of Science in Business Administration from the Max M. Fisher College of Business, 2001
Major: Real Estate and Urban Analysis

Professional Experience

Wiles, Boyle, Burkholder & Bringardner Co., L.P.A.
Columbus, Ohio
Legal firm supported by 28 attorneys specializing in insurance defense, real estate transactions, creditors' rights, litigation and estates and trusts.

Associate Attorney
November 2004 – present
- Lead attorney in firm's Foreclosure/Bankruptcy Department
- Represent a diverse group of clients with an emphasis on creditors' rights, including foreclosure, bankruptcy, litigation and collections.
- Meet with clients to develop and implement trial strategy based on clients' needs and recommendations, consistently obtaining favorable results through settlement or trial.
- Administer and manage numerous claims from inception to conclusion.
- Practice before federal courts, state courts, arbitration and administrative agencies.
- Draft a variety of pleadings including complaints, motions, briefs, discovery documents, legal response, memorandums in opposition, arbitration briefs, judgment entries and settlement agreements.
- Take and defend depositions in civil litigation matters.
- Research a variety of legal issues for clients and author legal advisory memorandums based on the particular situation.

Law Clerk
May 2002 – October 2004
- Drafted numerous legal documents, including contracts, pleadings to be filed with the court, discovery requests and advisory memorandums.
- Assisted in the preparation of trial matters by preparing exhibits, arranging client meetings, and briefing attorneys on trial issues.
- Attended and assisted lead attorneys at numerous fact-finding hearings and trials.
- Conducted copious amounts of research on a variety of legal issues and prepared memorandums for the requesting attorney.

Courier
January – August 2001

- Filed various pleadings and other legal documents with a number of courts in Franklin County, Ohio and the surrounding counties, including real estate transfers.
- Researched issues relating to real estate transfers including title defects, liens and title history.
- Served subpoenas and eviction notices.

Ohio Senate State House, Columbus, Ohio
State Senator Robert E. Latta, 2nd District
Constituent Aide
January – December 2000

- Wrote letters to constituents in the 2nd District of Ohio in response to concerns expressed.
- Advised constituents calling with questions and/or concerns regarding Ohio state government and pending legislation.
- Researched topics and issues to assist the State Senator Latta in serving his district.

Licensure/Certification

- Member of the Bar, State of Ohio; admitted 2004
- United States District Court, Southern District of Ohio 2005
- United States District Court, Northern District of Ohio 2006
- Title Insurance Agent in Ohio 2009

Community and Professional Involvement (past and present)

- Mortgage Bankers Association
- American Legal and Financial Network
- American Bar Association
- Ohio State Bar Association
- Columbus Bar Association
- Assistant Varsity Hockey Coach, Thomas Worthington High School

Print

| | CLE Requirements | Transcript | Instructions | Select Biennium:

2011

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| Add / Edit Course Hours | CLE Requirements | Print Transcript | Instructions |

Select Biennium: 2013

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Transcript* Print

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EXHIBIT NO. 4

Gregory L. Coburn
987 Cassingham Rd. So.
Bexley, OH 43209
614/231-8099

Experience:

April 1987 - Present: Mark Sheriff, Attorney at Law lateral transfer to Wiles, Boyle, Burkholder & Bringardner as a Commercial and Retail Litigation Paralegal

I am responsible for pre/post-judgment collections, work with staff coordinating the timing of advising the client of the status of the case and to make recommendations regarding the filing of the suit if warranted.

Other responsibilities include, communicating and negotiating with the debtor after suit and then follow-up making sure the claim is reduced to judgment. Work with the courts and instruct on the filing of post-judgment remedies. Drafting settlement agreements, complaints, proofs of claims and a variety of other documents.

I work with forwarding attorneys and collection agencies and keep client apprised of our progress with the files on an ongoing basis. Supervise staff in the decision-making process of how to handle activities such as amendments to pleadings and executions, bank and wage attachments. Make sure court docket is covered and witnesses are prepared for trial

Work with a Commercial/Retail Legal Software Data Base which includes EDI transfer of claims from other attorney and collection agency data bases.

1985-1987: Credit Union collections and portfolio rehabilitation. I have strong real estate lending background, served on Credit Committee and made recommendations to set lending policies.

1978-1985: Marshall and St. Clair Attorneys - Retail and Commercial Collections. *(See 1987 to Present for responsibilities and qualifications.)*

Prior Years: I also have a number of years experience in small financial institution lending.

Legal Knowledge:	I have extensive experience with The Fair Debt Collection Practices Act, the Fair Credit Reporting Act, The Uniform Commercial Code, Regulation E, The Privacy Act, Federal and State Exemption Laws, Bankruptcy Law (Chapters 7, 11 and 13), Real Estate Law, Domestic Relations Law and Rules of Civil Procedure on both the state and local court rules level. Subrogation is also a strong part of legal and collection skills as well as probate experience.
Basic Knowledge:	I know how to utilize the abundance of resources that are available by credit reporting agencies and have developed other investigative techniques with Internet and outside related resources. Vast experience in sub-prime loans, small lending institutions, commercial collections and foreclosures. Client development through The Commercial Law League of America, National Association of Retail Collectors and direct placement of claims.
Education:	High School Diploma-Huntington East High School, Huntington, WV Associate Degree in Business-Marshall University Studies include Business Law, Real Estate Law and Banking Law.

Alicia E. Zambelli, Esq.

5075 Highland Lakes Avenue, Westerville, Ohio 43082 (614) 558-6608
aliciazambelli@hotmail.com

Education

The Ohio State University Moritz College of Law, Columbus, OH
J.D., *Cum Laude* 2007

University of Pittsburgh School of Law, Pittsburgh, PA
Attended for 1L before transferring to The Ohio State University Moritz College of Law

Cornell University School of Hotel Administration, Ithaca, NY
B.S. in Hotel Management 2001

Work Experience

Wiles, Boyle, Burkholder, & Bringardner, Co., L.P.A., Columbus, OH
Associate 11/07 – Present
Law Clerk 10/05 – 11/07

Private general corporate and commercial litigation practice specializing primarily in real estate and construction. Practice includes representation of home builders, homeowners'/condominium owners' associations, small and large closely-held businesses including a significant number of restaurants. Transactional work includes commercial leasing, construction contracts, mechanic's lien work, trademark, liquor permit work and general corporate transactions.

Doubletree Guest Suites, Columbus, OH
Sales Manager 10/03-8/04

Handle sales of hotel rooms and space to clients at a 196 suite hotel. Perform frequent outside sales calls to new and existing accounts. Prepare and negotiate sales contracts. Serve as clients' primary contact and coordinate groups' stay at property.

Adam's Mark Hotel (now the Columbus, a Renaissance hotel) Columbus, OH
Sales Manager 12/02-10/03

Handle sales of hotel rooms and space to clients at a 196 suite hotel. Perform frequent outside sales calls to new and existing accounts. Prepare and negotiate sales contracts. Serve as clients' primary contact and coordinate groups' stay at property.

Other

-Admitted to Ohio, Southern District of Ohio, and Northern District of Ohio
-Member and legal counsel for the Building Industry Association of Central Ohio 2007-2011; frequent author of Legal Outlook for the B.I.A. Builder Update Magazine

Alicia E. Zambelli

1) Detailed Description of your collection experience

Alicia handled all aspects of HOA/COA collections litigation from November 2008 to present; State of Ohio and commercial collections litigation from November 2007 to present

2) Approximate years of collection law experience

4 yrs.

3) Approximate percent of your practice related to collection matters

10%

4) Approximate percent of your practice in State Court and approximate percent in Federal Court

100% in state court

5) Registration number. Each state and federal bar you are admitted to practice; courts you are actively practicing.

0082209; Ohio, Southern District of Ohio, Northern District of Ohio; actively practicing in Ohio state court

6) CLE Seminars, Title, location, date and hours

6/21/11 Landlord Tenant Law, Columbus, OH 2.0 CLE/6.0 teaching

9/9/11 Masters in Trial on Jury Persuasion, Columbus, OH 6.75

9/27/11 Boot Camp: Foreclosure & Loss Workouts, Columbus, OH 6.0

12/13/11 Trials of the Century, Columbus, OH 6.0

BRANDON L. ABSHIER
6635 Pastland Road
Worthington, OH 43085
614-546-9104
babshier@wileslaw.com

EDUCATION:

Capital University Law School, Columbus, OH (2008)
Juris Doctor, cum laude

North Carolina State University, Raleigh, NC (2004)
B.S. in Business Management with a concentration in Finance, cum laude

WORK EXPERIENCE:

Associate Attorney
Wiles, Boyle, Burkholder & Bringardner Co., L.P.A., Columbus, OH
(October 2008-Present)
Practice area includes litigation and collections;
Extensive experience in motor carrier and aviation law.

Law Clerk
Wiles, Boyle, Burkholder & Bringardner Co., L.P.A., Columbus, OH
(April 2007-October 2008)

ASSOCIATIONS:

Columbus Bar Association
Ohio State Bar Association
Transportation Lawyers Association

PUBLICATIONS:

FMCSA's New Texting Ban: Serves as a Reminder to Ensure Company Manuals are Up to Date.
The Transportation Lawyer Magazine, December 2010, Volume 12, Number 3

Branden L. Abshier

1) Detailed Description of your collection experience

Over ten bench trials regarding collections. Also involved in motion practice and settlement of cases

2) Approximate years of collection law experience

3.5 years of collections experience

3) Approximate percent of your practice related to collection matters

5-10 percent of practice related to collections.

4) Approximate percent of your practice in State Court and approximate percent in Federal Court

80% of practice in state court, 20 % in federal court.

5) Registration number. Each state and federal bar you are admitted to practice; courts you are actively practicing.

OH #0083505. Also licensed in U.S. district Court for Southern District of Ohio

6) CLE:

TIDA Annual Industry Seminar October 2010, 7 hours

Basic Lexis Legal Research, January 2011, 1 hour

Transportation Lawyers Association 2011 Regional Seminar, January 2011, 7 hours

TIDA Annual Seminar, October 2011, 7 hours.

Ethics, Professionalism & Substance Abuse, July 2011 2.50

Masters in Trial on Jury Persuasion, September 2011, 6.75 hours

Molly Gwin
2271 Hedgerow Rd. Apt. A . . . Columbus, Ohio 43220 . . . (614)-284-7803 . mgwin@wileslaw.com

Education

The Ohio State University, Moritz College of Law, Columbus, Ohio
Class Rank: Top 35%, Cumulative GPA, 88.0%
- Robert D. Horowitz, Community Services Scholarship
- Sanders Mestel Scholarship
- The Herman Competition

Miami University, Oxford, Ohio
B.A. *cum laude*, May 2008
Cumulative GPA 3.7
Majors: English Literature, Mass Communication
- Dean's List
- Magna cum laude Society
- Alpha of Delta Zeta Academics Chairperson
- Activities:
  Top 5% performer among paid telecommunications representatives charged with cold calling to solicit donations from alumni, parents, and students.

Work Experience

Wiles, Boyle, Burkholder & Bringardner, Columbus Ohio — February 2010 – present
Attorney
• Conduct research and draft documents for 28-member firm specializing in the areas of real estate, litigation, general business, and collections.

Crabbe, Brown & James, Columbus, Ohio — May 2009 – January 2010
Law Clerk
• Conduct research and draft documents for 24-member firm specializing in the areas of insurance defense, litigation, general business, real estate, and probate law.

Stark County Prosecutor's Office, Canton, OH — Summers 2006-2008
•Victim advocate
• Provided information on financial and emotional support to victims of crime in three municipalities as well as Stark County Common Pleas Court.

Business Experience

McDonalds Corporation, Canton, OH Summer 2005
Public Relations Intern
• Coordinated a program through 10 parochial schools involving students selling gift certificates in which they shared profits with McDonalds Corporation.
• Conducted Market Research through mystery shops at 17 McDonalds restaurants

Interests

Have completed course work for real estate salesperson license; big brothers, big sisters, tennis, running, and reading.

Molly R. Gwin

1) Detailed Description of your collection experience

Collections litigation including but not limited to drafting pleadings, serving discovery, negotiating settlements.

2) Approximate years of collection law experience

November 2011- present (.5 years)

3) Approximate percent of your practice related to collection matters

approximately 75%

4) Approximate percent of your practice in State Court and approximate percent in Federal Court

95% state court

5) Registration number. Each state and federal bar you are admitted to practice; courts you are actively practicing.

Attorney Number: 0088189
Admitted State of Ohio

6) CLE:

Lawyer to Lawyer Mentoring Program (Mentor Mike Close)

MARK GLUMAC

EDUCATION

The Ohio State University, Moritz College of Law — Columbus, OH

- Juris Doctor, *Cum Laude*, May 2011
- Grades – 92.1 Average; Top 15% of Class; 3.64 GPA
  - CALI Awards – Insurance Law and Interprofessional Patient-Client Case
- *Entrepreneurial Business Law Journal*, Associate Editor, 2009-2011
  - Published Article - *The Employee Free Choice Act: The Effect of Compulsory Interest Arbitration on Entrepreneurs*, 3 Entrepren. Bus. L.J. 177 (2010).
- Barton Memorial Scholarship and Academic Merit Scholarship Recipient
- Secretary of Administration, Sports and Entertainment Law Association, 2009-2011
- Studied abroad at The University of Oxford, England, Summer 2009

The Ohio State University — Columbus, OH

Bachelor of Arts in Arts and Sciences, *Cum Laude*, August 2007

- Major: Political Science
- Studied abroad at The University of New South Wales, Australia

Tulane University — New Orleans, LA

- Attended from August 2003 – May 2004

WORK EXPERIENCE

Wiles, Boyle, Burkholder, & Bringardner, LPA — Columbus, OH 2011 - Present

Associate Attorney

Bar Admissions – Ohio 2011, United States District Court Southern District of Ohio 2011, Florida (pending swearing in)

Practice Areas – Litigation, Debtor-Creditor Law, Real Estate

Handle all aspects of litigation on behalf of various clients, from initial client meetings through trial.

Wiles, Boyle, Burkholder, & Bringardner, LPA — Columbus, OH 2010-2011

Law Clerk

Drafted pleadings, prepared memoranda, conducted research, and attended hearings

The Ohio Supreme Court — Columbus, OH Spring 10

Judicial Extern for Justice O'Connor

- Wrote Jurisdictional Memoranda and participated in writing opinions

The Ohio State University Moritz College of Law — Columbus, OH Summer 09

PEW Absentee/Early Voting Project

Research Assistant for Professor Daniel Tokaji

Compiled a database of early and absentee voting laws for all 50 States effective during each general election from 1972-2008

INTERESTS

Golf, International Travel, Cooking, Softball, Reading, and Running

Mark A. Glumac

1) Detailed Description of your collection experience

Mark began doing collections work as a law clerk a little over two years ago. Since being sworn in in November 2011 he has been heavily involved in all aspects of litigating collections files from mediation to damages hearings and bench trials.

2) Approximate years of collection law experience

1/2 Year as attorney; 2 Total

3) Approximate percent of your practice related to collection matters

75% collections work

4) Approximate percent of your practice in State Court and approximate percent in Federal Court

90 % state court 10% federal

5) Registration number. Each state and federal bar you are admitted to practice; courts you are actively practicing.

OH 0087775 - Ohio, US District Court for Southern District of Ohio, Florida (pending swearing in)

6) No CLE Seminars. Participant in Lawyer to Lawyer Mentoring CLE substitute

ATTACHMENT NO. 10

Disaster Recovery Plan

Wiles, Boyle, Burkholder & Bringardner Co., L.P.A.

[REDACTED]

L. Your Disaster Recovery Plan

[REDACTED]

Doc. 48-13 **EXHIBIT D**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

CASE NO. 2:12-CV-1053
COLUMBUS, OHIO
JANUARY 30, 2013

STATE OF OHIO,

PLAINTIFF,

VS.

NOBILE & THOMPSON COMPANY, LPA,

DEFENDANT.

TRANSCRIPT OF MOTION FOR A TEMPORARY RESTRAINING ORDER HEARING
BEFORE THE HONORABLE GREGORY L. FROST
UNITED STATES DISTRICT JUDGE

APPEARANCES OF COUNSEL:

FOR THE PLAINTIFF:
SHERRY M. PHILLIPS, ESQUIRE
RANDALL M. KNUTTI, ESQUIRE
CHRISTOPHER P. CONOMY, ESQUIRE

FOR THE DEFENDANT:
ERIC E. WILLISON, ESQUIRE
MICHAEL B. ZIEG, ESQUIRE
JAMES E. NOBILE, ESQUIRE

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[2] Wednesday Morning Session
January 30, 2013
9;00 a.m.

IN OPEN COURT:

THE COURT: Mr. Miller, will you call the case, please?

COURTROOM DEPUTY CLERK: Case Number C-2-12-1053, the State of Ohio versus Nobile & Thompson Company, LPA.

THE COURT: Thank you.

Let the record reflect that the State of Ohio, Plaintiff -- you'll have to bear with me today -- I'm sorry -- the State of Ohio, Plaintiffs, are present, being represented by Sherry Phillips --

MS. PHILLIPS: Yes, Your Honor.

THE COURT: -- Randall Knutti, and Christopher Conomy.

MR. KNUTTI: Yes, Your Honor.

THE COURT: The Nobile & Thompson defendants are present, being represented by Mr. Willison --

MR. WILLISON: Yes, Your Honor.

THE COURT: -- Mr. Zieg --

MR. WILLISON: -- and Mr. Nobile.

MR. NOBILE: Good morning, Your Honor.

THE COURT: Today's date is January 30, 2013.

[3] Just for a brief background, I guess, the complaint in this matter was filed in the Franklin County Common Pleas Court asking for declaratory

judgment by the State of Ohio. It was then removed by the defendants to this Court on November 14, 2012.

We conducted among ourselves a 65.1 telephone conference on November 15, 2012. Since then, the parties have filed a joint stipulation of facts. That was Document Number 16. That was filed on January 25, 2013. And then the parties filed their merits hearing brief, or trial briefs, or whatever you want to call it. Those were filed on January 28, 2013. That's Documents 17 and 18. We're here today for the hearing on the temporary restraining order.

Counsel for the Plaintiff State of Ohio, how do you wish to proceed, or how do you intend to proceed?

MS. PHILLIPS: Your Honor, I think none of the parties have any witnesses. Is that correct?

MR. WILLISON: Correct.

MS. PHILLIPS: We had spoken. So I think that the parties are prepared.

THE COURT: In light of the extensive stipulation, I can't imagine what you would have as evidence, but -- or testimony, but that's fine.

So what you're going to do is just oral arguments?

MS. PHILLIPS: Yes, Your Honor. I think that would [4] work for the parties. I would say that I think that we are here on the combined merits, not just --

THE COURT: Yeah. I'm sorry. When I said that -- we are now, that's correct, the combined merits of the entire case.

MS. PHILLIPS: Yes, Your Honor.

THE COURT: That's right.

MS. PHILLIPS: We're here on that.

THE COURT: Thank you.

And I don't know who will be speaking for the defendants, but Mr. Willison, Zieg, or Nobile, do you agree that that's how we should proceed?

MR. NOBILE: We agree, Your Honor.

THE COURT: Good. Thank you.

Then, Ms. Phillips, Mr. Knutti or Mr. Conomy, you may proceed with any oral argument you wish to make at this time. And you've got all day. We had planned on an all-day hearing.

MS. PHILLIPS: Well, Your Honor, I think that that's one of the things I would like to present.

I am Sherry Phillips. I'm here for the State of Ohio, Attorney General Michael DeWine, and I would like to thank your Honor for advancing this cause on the docket. I know that federal courts are busy, and we really greatly appreciate the expedited proceedings that we've been privy to.

The narrow issue before the Court is whether the use [5] of Special Counsel appointed by the Attorney General pursuant to statute violates the Fair Debt Collection Practices Act, the Deceptive Trade Practices Act or the Consumer Sales Practices Act. We believe that the answer is no because Special Counsel are part of the State and the letters accurately depict the relationship between the Attorney General and Special Counsel.

Unlike so many of the parties that are in any of the case law that is before the Court, the Special Counsel

do have the approval and sponsorship of the Attorney General in the use of the logo and letterhead that they are sending their collection letters out on.

Just briefly, I know that Your Honor is probably familiar with the facts; but, if you'll indulge me, I'll go over those facts that we believe to be particularly crucial.

THE COURT: Sure.

MS. PHILLIPS: All state agencies and some local political subdivisions certify debts pursuant to Ohio Revised Code 131.02. First, those debts are collected by in-house resources and collectors, then through third-party vendors, and then ultimately through Special Counsel, who are appointed pursuant to statute. That statute is 109.08.

All collectors use the central computer system of the Attorney General. It's the Columbia Ultimate Business Systems. CUBS is what we call it.

THE COURT: I wasn't aware of that. I actually had [6] to look that up to see what the heck this is all about. But, yeah, go ahead. I wasn't aware that you guys had a computer system that was, at least from your standpoint, or from the pleadings anyway, that sophisticated. But go forward.

MS. PHILLIPS: Well, Your Honor, I would beg to differ with it being sophisticated.

THE COURT: Okay. Maybe it's not.

MS. PHILLIPS: When you look at it, you see a dot matrix screen --

THE COURT: Oh.

MS. PHILLIPS: -- from the -- but through client view, the Special Counsel, at least, get a little bit cleaner screens.

THE COURT: Maybe an abacus would be better, but go ahead.

MS. PHILLIPS: But that is beside the case.

It is very sophisticated. It's been tweaked a lot. It has, basically, though, all documents and all notes. And all of the account details, both from the agencies and from the Special Counsel and from any in-house resources, are loaded into the system and are visible by popping them up.

When anyone has a contact with a debtor -- obviously, not everybody does everything they're supposed to, but they are to log that contact, and so we can see the progress of a particular account and all of the contacts through that one [7] system, in-house and external.

The Special Counsel are defined under Ohio Revised Code 124.11 as being part of the unclassified civil service of the State. And, if you look, that is where Assistant Attorneys General are also appointed, in that same paragraph.

The Special Counsel are trained by the Attorney General's staff. They have seminars, in-house seminars, they have to come to. Sometimes they get CLE on some of the points, but they have internal trainings. They have policies that they are required, and guidelines, that they are required to adhere to.

We share forums, chat forums, discussions. If they have a concern, they can put it out there, you know, as anyone else had a situation like that. And they

also have the resources of the Assistant Attorneys General, who do help them with drafting pleadings, making decisions, negotiations and that sort of thing, familiarizing them, especially if they're new, with the actual debt types.

Also, the Attorney General serves as a conduit between the Special Counsel and the agencies. Occasionally, there is some communication; but, generally, for the most part, the Special Counsel talk to their account representatives. And then they, in turn, the account representatives, communicate with the agencies about the issue. And, that way, when documents are transferred between all those entities, the [8] Attorney General makes sure that everything is documented, both so that, if there is a contact, the Special Counsel will write in there: Contacted client rep, you know, for documents from client, or from agency. Then the client rep, or the Special Counsel rep, would do the same, saying: Sent to agency for documents.

When the documents are received, uploaded onto CUBS, the image is there. And the rep is to make a note: Documents received and forwarded to ... And that's how tied into the system the Special Counsel are.

They've performed -- Special Counsel generally, outside of just collections, perform all manner of special functions made possible only by the special statutory authority that they are granted under 124.11. We put them in our brief, but they have -- these are not powers that could be granted under any contract. They can prosecute crimes. They can defend in the Court of Claims. They can prosecute fraud under Workers Compensation and Medicaid and

Civil Service laws. They can -- they have special authority to collect under 109.08. And, as part of the Attorney General's policies, we do direct -- the Attorney General does direct the use of the letterhead in the collection process.

Debtors are concerned about fraud, in general. And the logo allays their suspicions somewhat because I think that they have seen the letter come in before saying: You owe this [9] debt, and it has the State of Ohio seal both from the agency and then when it's transferred into the in-house process. So then, when they get the letter from Special Counsel, it makes sense to them.

But, frankly, as we put in the stipulations, debtors call all the time: Is this -- you know. Is this right? Is this it? And we have to reassure them that, yes, these people are collecting, and please do go to them for your concerns and work through them, because, of course, the in-house resources would be overwhelmed if we didn't. But if the process doesn't work, then they go back to the in-house resources, and they are their concerns are addressed. Special Counsel are, you know: What's going on? Why are you having this problem? They -- believe me, they contact the Attorney General, so that there is a process for any complaints that is in-house.

The letters are sometimes -- on the letters, you'll see -- as the exemplars in the stipulation show, sometimes the outside -- the Special Counsel -- refer to themselves as outside counsel and sometimes as Special Counsel. Historically, both have been used and have been directed by the Attorneys General. And I think that, the Special Counsel, they try to do whatever the newest Attorney General says; but if

maybe they didn't get the memo or they just continue doing what they've been doing, you know, the changes that go back and forth, I think the current administration believes that [10] "Special Counsel" is more accurate, because it does reflect the statutory phrase, but I do believe, also, that "outside counsel" is something that the lay people understand a little bit better than maybe what is a Special Counsel.

And, so, there is some -- although they are directed to collect according to policies and there are certain things they're not permitted to do, such as to file certain suits without special permission, there is a -- discretion is granted to them as to the number of contacts, how they want to do that, exactly what they say during the communications.

And the other thing is that we believe that the use of the letterhead and the logo helps to inform the debtors that this is a debt of the State. And I know one of the concerns is that this elevates the debt above those of other collection agencies. And that's true. And that is for a good reason: Because, if they ignore these debts, there are some special statutory and policy effects that could come about that are much stronger. For example, their tax refunds can be offset. Any casino or lottery winnings can be snagged. They can lose employment opportunities and/or contracting abilities through some of the other documents. They can lose licenses because both the Department of Education and the Department of Insurance tie the issuance of a license to some of the collection issues that the Attorney General is working on. So, we do want them to know this is a debt of the State and the [11] State remedies may apply.

The Fair Debt Collection Practices Act is intended to stop unscrupulous collectors from pretending to be part of a government agent. In this case, the Special Counsel are not pretending, they're not unscrupulous, and they are authorized to be part of the government. And the standard for misrepresentation is, basically, is it true?

For example, in Smith vs. Transworld Systems, 953 F.2d 1025, the Court held that the name -- the statement "Transworld Systems is a licensed collection agency" did not constitute an attempt to falsely represent that it was affiliated with the State because the statement was true.

In this case, the statement is true. They are Special Counsel to the Attorney General.

The Federal Trade Commission has opined on the least sophisticated consumer standard for determining misrepresentation claims.

I think you know where you're going.

THE COURT: I do.

MS. PHILLIPS: And I have to get --

THE COURT: I forget whose brief it was in. Maybe it was your brief.

MS. PHILLIPS: It was mine, and I was going to repeat it because it's just so true --

THE COURT: That's fine.

[12] MS. PHILLIPS: -- that in the Gammon case Judge Easterbrook mentioned that the least sophisticated consumers actually believe that 12 senators are from other planets.

THE COURT: I think that is true, by the way.

MS. PHILLIPS: That militates toward an objectively reasonable standard, because we could come up with absurd results if we took that to its logical extreme.

Now, one of the cases that has come up is the Gradisher case. And, in Gradisher, the Muskegon County Sheriff had a relationship with some collectors that wasn't quite clear. They allowed them to use that, but they had a contract. The Special Counsel were not appointed to any official position as the Special Counsel are. They just had a contract. But the most important issue is that, in that case, the letterhead of the sheriff was used with no indication of the sender being an outside agency or attorney. And that is distinguishable in this case because the Special Counsel do put their own name. And, even on the envelopes, it's clear that the address that it's coming from is their name and business.

Also, the idea has been floated, not so much in the briefs but in, I think, the letter in August of 2012, that there is a problem in the furnishing of a form that we use to create a false belief in a consumer that a person other than the creditor is participating in the collection effort. And I get the impression that what the argument is is that the [13] Attorney General is not collecting -- is not participating in the collection because it is a state agency or local subdivision, political subdivision, debt and it is being collected by a Special Counsel and, therefore, the Attorney General is falsely saying that it is participating.

Well, for one thing, the Ohio Revised Code requires and/or authorizes the certification of debts to the

Attorney General. And, for other purposes, we've taken the position that, once it is certified to the Attorney General, it is the Attorney General's debt, because you do have to separate out, for conflict-of-interest purposes, some of the decisions of, you know, when are state agencies together and when are they not. However, for general purposes, the State is the State is the State. And that is what the Ohio Department of Human Services versus Ohio Department of Transportation case holds: that you can't -- although the silos are necessary for certain purposes, in general, when any actor of the state is working, it is the state as a whole, and you really should not completely separate those. Now, so, the idea that the Attorney General is not participating in the collection is simply wrong, we would submit.

Now, looking at the Deceptive Trade Practices Act, it is designed to address anti-competitive behavior between commercial actors. It is not a consumer statute. And the Gascho case cited in our brief indicates that -- it addresses [14] commercial injury, not consumer injury. That case -- the Deceptive Trade Practices Act was an allegation against the Special Counsel in the letters from the defendants' firm. And, frankly, it's very difficult to even figure out the logic of that.

Looking at the elements of the Deceptive Trade Practices Act, you see that if you pass off goods or services as those of another, if you cause a likelihood of confusion as to the source, sponsorship, approval or certification of goods or services or if you represent that goods or services have sponsorship or approval when they do not. Well, that is ignoring a whole lot of other points in that law. We've picked out those that

potentially might have some relevance to these proceedings.

First of all, the issue is that there is no likelihood of confusion. Debtors may not know what a Special Counsel is. As we've talked about, it might be better for them to be called outside counsel because the lay person might understand that better, but the letters do accurately state the role of Special Counsel; and, if they were so inclined to look it up, they would find in the Revised Code what a Special Counsel is and what the relationship is right there in 124.11 and 109.08.

Also, there is no relationship or affiliation as stated that the Special Counsel do not have. So, for all the [15] same reasons that are under the FDCPA, it's not a deceptive act. It's our position that it's the same thing under that state law.

Again, the National Football League case makes it clear, although it's in a different context, what one cannot do is that creates a manner -- advertise services in a manner which creates an impression that the services and the holder of the mark exists when such does not -- when no such connection exists. Well, in this case, again, the connection does exist.

Now, looking at the Consumer Sales Practices Act, again, it's not really intended to cover this issue. So we have to strain a little bit to find the ideas in there. But it does say that no supplier shall commit an unfair or deceptive act -- once again, our position is that these statements of this are not deceptive -- and that the subject of a consumer transaction has sponsorship, approval or other benefits that it does not have. And, again, the same basic principles are set forth in the Rice case that we cited in our brief:

that an act is deceptive only if it has the likelihood of inducing in the mind of a consumer a belief which is not in accord with the facts.

We respectfully request that the Court grant a declaration indicating that the use of letterhead by Special Counsel does not violate any provision of the federal Fair Debt Collection Practices Act, Ohio's Deceptive Trade Practices Act, [16] or Ohio's Consumer Sales Practices Act.

Thank you.

THE COURT: Thank you, Ms. Phillips.

Counsel for the defendant, Mr. Willison.

MR. WILLISON: Yes, Your Honor.

THE COURT: You may proceed.

MR. WILLISON: Yes, Your Honor.

THE COURT: And, you know, if you guys want to get back up and reply or -- there is not a problem here. We've got plenty of time, like I said. So don't worry about that.

Mr. Willison, you may proceed.

MR. WILLISON: Good morning, Your Honor. My name is Eric Willison, representing the defendant, Nobile & Thompson, in this matter.

I'm going to be addressing the issue of whether debt collectors are covered under the FDCPA. And with the Court's indulgence, Mr. Nobile will be addressing, if they are debt collectors, what parts of the FDCPA does that conduct violate.

THE COURT: Sure. Got it. That's kind of how you broke down your brief.

MR. WILLISON: Thank you, Your Honor.

The first issue we want to discuss here is what the main issues are, which are, are they debt collectors and what do they violate if they are. To look at that, we need to understand the legislative history of the FDCPA going back to [17] 1977. And we attached these to our trial brief. I found an old dust-covered book in the Franklin County Law Library.

THE COURT: I wondered where you got that.

MR. WILLISON: Yeah. The reference librarian actually told me, she said: Not many people ask for these things anymore.

But I had her going back there, but it talked about this issue of debt collectors gaining an advantage in the process by simulating and pretending to be law enforcement officers.

It's a lot scarier to get a letter from the Franklin County Sheriff's Department or the City of Columbus Police Department or the Ohio Attorney General's Office, because the unsophisticated debtor, when they get that, they think, I could be prosecuted if I don't pay this.

You know, a debtor usually owes more than one debt. You could have, let's say, three debts: one to Visa, and you've got a debt collector trying to collect for that; then you've got one to, say, a Shell credit card, and some other debt collector is trying to collect for that; and then you've got this third debt to, let's say, OSU Hospital. And here comes the State AG's office trying to collect for that and a debt collector using that letterhead.

Now, the debt collector has to make a -- sorry. The debtor has to make a rational decision as to which debts to pay [18] first, and it could be that the Visa debt has an extremely high interest rate. So, if the debtor, with his limited funds, wants to pay that first, that would be a good reason for that. Perhaps the Shell card has a penalty if you don't pay by a certain period. That would make a lot of sense to pay that first, but then along comes this letter from a law enforcement officer. And the implication there is, gee, that these guys could prosecute me if I don't pay this debt. And it skews the thing. It also has the effect of, not only does it remove the ability for the debtor, the least sophisticated debtor, to make the rational decision as to which debts to pay first, it also disadvantages those debt collectors who work for Visa and for Shell, because their debt just now got pushed to the back of the bus. So, all of these are things that the FDCPA was designed to protect against because of the fact that they don't want the other debt collectors who do follow the law to be disadvantaged by the fact that they're following the law and not engaging in this conduct.

Now, when we talk about the FDCPA and its application to the Special Counsel, there is an exception. First of all, the FDCPA only applies to debt collectors, all for except one provision. And there are exceptions to that provision of who is and who isn't a debt collector. And one of the exceptions that's key in this case is whether someone, whether the debt collector, is an employee or an officer of the United States or [19] a state.

Now, in this case, plaintiff does not really say what Special Counsel are. They don't say. They say they're

not an employee, because, in their stipulations, they've stipulated that they're not employees, but they don't say that they're officers. They say they're part of the State of Ohio, they're something, but they don't really say they're officers.

This case come before -- the issues in this case had actually come before this Court before, back in 2008. Judge Marbley actually had a case, the Keefer case. Unfortunately, due to the procedural issues there, he was not able to rule on the case. And I believe it later settled before there was a need for that ruling. But Judge Marbley analyzed the case the same way that the Ohio Ethics Commission did back in 1975 and the same way that the Gradisher court analyzed it and the same way the Brannan and the -- I believe it was Pollice -- I'm not sure if it's Pollice or Police (phonetic) or Polich (phonetic) or whatever, but they all analyzed it the same way. And they said, you're either an employee or an officer, in which case you're not covered by the debt collectors statute; you're not covered as a debt collector; or, over here, you're an independent contractor, and you are.

So, the question, then, is whether these people are independent contractors or whether they're officers of the State of Ohio.

[20] Now, in that ethics opinion from 1975, there was a Special Counsel who was appointed under 109.08, and he was concerned because there is this other statute in the Revised Code, 102.04. And 102.04 deals with the compensation that Special Counsel or any government official can get and how they're paid.

And I believe, in a nutshell, what 102.04 says is, you have to be paid -- if you're an officer, you have to

be paid by the office that you work in. Okay? And, Special Counsel, they don't just do this collection work. They also -- they're just attorneys, you know, working for their firms, and they do a lot of outside work. And this one attorney was concerned because he not only was a Special Counsel trying to collect debts, he was also doing other work for other departments of the State of Ohio and was being paid for them, and he was concerned that he was running afoul of 102.04. So he asked for an ethics opinion from the Ethics Commission.

The Ethics Commission basically told him, well, relax; you're not an officer of the State of Ohio, and here is why: To be an officer, you have to be appointed to a position, that is, either in the -- either set out in the Ohio Constitution or set out in the legislative enactment. And there is no legislative enactment that sets up an office of Special Counsel. So, they said, basically, if we look at your relationship with the State, you look a lot more like an [21] independent contractor.

And then the Ethics Commission went through that 13-factor test that we all heard in law school about whether somebody is an independent contractor or an employee and that sort of thing. And they concluded that Special Counsel appointed under 109.08 are independent contractors for the purposes of having to worry about 102.04 and getting paid by other state agencies. So they said: Don't worry. It's no problem. You can get paid by other agencies and do your work.

Now, the State comes in and says that these people are, somehow, a part of the State of Ohio. It's difficult for me to understand the argument that

they're not independent contractors because, if you look at the contract that they signed with the State of Ohio, the retention agreements for Special Counsel, both the 2011 agreement and the 2012 agreement, both of them, recite -- and the State drafted this language -- both of them recite that Special Counsel are to think of themselves – and they use these exact words -- solely as independent contractors. But then you come in here and you say, well, no, they're part of the State. But yet in the agreements that they sign, they're independent contractors.

They say they're not debt collectors under the FDCPA, but, if you look at the letters that are attached to the stipulations that they send out, the Special Counsel say, we are debt collectors. So they say one thing to the consumer, [22] and then they come in here and say another thing here. Well, they don't. The Special Counsel aren't speaking here. The State is. But the State is saying that the debt collectors are saying one thing to the debtors, but there's something else here. And then they say that none of this causes any confusion. That's just not the case.

The fact that you're appointed -- the fact that you're engaged to work for the State of Ohio to do something for the State of Ohio pursuant to a statute does not make you an officer of the State of Ohio. Every action, every action that the State takes, is pursuant either to the Ohio Constitution or to some legislative enactment or some Ohio Administrative Code enactment or, presumably, a court order. The State doesn't just wing it. So, everything that they do is pursuant to some sort of legislative enactments.

That's a circular argument to come in and say that because 109.08 allows the Attorney General to engage these people that that is somehow definitive as to the issue of whether they're an officer. That is a circular argument.

Secondly, when we talk about this 124.11(a)(11), it does describe Special Counsel as unclassified civil servants, but let's again look at the FDCPA. The FDCPA says you get the exception if you're an employee or an officer. It doesn't say you get the exception if you are a civil servant or an unclassified civil servant.

[23] Further, this statute, 124.11(a)(11), it deals with whether you're classified or unclassified. Those distinctions don't make you an officer. That's not the purpose of that statute. The purpose of that statute is to tell employees whether they have a property right in their job. If you're a classified employee, they can't just say: You're fired. Out. You've got to have a hearing. You've got to have whatever the proceedings are for civil servants. They get protections, so that it's not just an at-will employment. If you're unclassified, they don't have to give you those protections. They say: You're fired. Out you go. That's 124.11(a)(11).

Now, there was some talk about how, well, Special Counsel have all sorts of other powers: They can try cases. They can do this. They can do that.

There are several statutes that allow for the appointing of Special Counsel, but we are here on 109.08, which is the debt collection one. And whatever all these other fellas do under their powers, well, they're not debt collecting. So they're safe from us. I don't think what they have -- the powers that

the other people have, that doesn't really make a difference to your analysis of this case.

Now, there was also some talk about, in the briefs, about the sweeping powers that the Special Counsel have. You know, these powers are so sweeping that they're not allowed to carry business cards that say they're from the Attorney [24] General's Office.

109.08 gives these Special Counsel extremely limited powers. They can collect the debts. They can't do anything else. They're not out there prosecuting crimes and all this sort of thing.

There was also some talk about the control that the A.G. has over the Special Counsel; but, in the stipulations -- and we pointed these out in our brief -- in the stipulations, they talk about how Special Counsel has discretion once the account gets forwarded to them. And discretion is the hallmark of an independent contractor.

If you look at the 13-factor test -- and, again, that Ethics Commission, even though from 1975, goes through that 13-factor test -- and then if you compare that to the evidence and the stipulations, you'll find that Special Counsel use their own offices. They use their own computers. They use their own printers. They don't have company cars. They're 1099 employees. They're not W-2 people. They're 1099s.

For tax purposes, 1099s are used for independent contractors. These people are independent contractors. And under the analysis from Marbley, the Ethics Commission, from Gradisher, from Brannan and Pollice, independent contractors are covered under the FDCPA.

Now, in Gradisher, the State attempts to make a distinction that, oh, well, Gradisher is different because the [25] collector in Gradisher never actually used his own name. But whether he used his own name doesn't make a difference as to whether they are covered under the debt collector statute. That only is a matter of whether or not it's a violation or not.

And, again, Mr. Nobile will deal with what conduct constitutes violations of what part of the FDCPA. But Gradisher found, in the end, these folks were covered. They had signed a contract with the Muskegon County Sheriff's Office and the county to try to collect these -- I believe it was water bills in Gradisher. And the court in Gradisher found it extremely important that the contract between CEU, which was the defendant in Gradisher, and the Muskegon County Sheriff's Department specifically said that CEU was to regard itself as an independent contractor. That court said that's important; that's really important. And, here, in the same -- in the same way, their contracts identify the Special Counsel as independent contractors. In fact, they even use the word "solely."

There is also this issue of, well, they're still, somehow, part of the State of Ohio. If they're part of the State of Ohio, how are they signing contracts with themselves? And the contract isn't just a contract, therefore, with themselves. That contract requires them to indemnify the State of Ohio.

[26] How do you indemnify yourself? More importantly, why do you indemnify yourself? It doesn't make any sense. If I'm going to engage in some risky activity, I don't write a contract up that

night and say: Eric Willison agrees to indemnify Eric Willison if the skydiving thing goes all pear shaped tomorrow. So, it doesn't make any sense for them to indemnify themselves and come in here and claim they're not -- that they're a part of the State of Ohio.

Moving on, Your Honor, to the part about furnishing of deceptive forms, they say in one breath that they're not falsely suggesting anything because they are part of the State of Ohio, but yet Special Counsel puts Special Counsel's law firm's name along with the State of Ohio's name. So they're either falsely suggesting they're with the State of Ohio or they're falsely suggesting they're with the law firm of Eric A. Jones or whatever Special Counsel there is. So, one of these two can't be right.

Lastly, Your Honor, on the CSPA question, I wanted to briefly address that, because we didn't put it in our brief, that the Sixth Circuit has found and actually -- I'm sorry -- not the Sixth Circuit. This Court has found that the FDCPA has been incorporated – the CSPA has incorporated the FDCPA such that a violation of the FDCPA is a violation of the CSPA. So, we can go through all of these, you know, the various ten factors in 1345.02, but there is also 1345.03 and all the case [27] law that supports that. And in all of the factors under 1345.02 they say this is not an exhaustive list. This is just -- these are examples. And then, 1345.03, these are not exhaustive lists. They're factors as to whether something is unconscionable or deceptive. Similarly, in the FDCPA, it says that the following things are violations, but this is just -- this is a list. It's including, but not limited to. There are other things that can be a violation.

One other thing, too. They said that, well, as long as it's true, then they're off the hook. But, in our brief, we talked about -- I believe the case was Gammon vs. GC Services. And they quoted it, too. And, in Gammon, the Court said just because something is literally true does not mean that it's not misleading. And that's a little bit hard to get your head around at first, but then you look at what happened in Gammon.

In Gammon, the debt collector sends out in the letter, and they also say in the letter, well, we used to work with the federal government, specifically the Department of Internal Revenue, and also the tax collection departments for various states. And the Court in Gammon, you know, that's a threat. That's basically saying, you know, we know how -- we've got friends; we can get to you; we know how the game works; and we can use our contacts; and we will get this debt collected, you know, using our contacts with them.

It was literally true that, yes, in the past, Gammon [28] had worked for -- sorry, not Gammon, but GC Services -- had worked for the Internal Revenue Service and for these various state departments of taxation. But they said, even though that's literally true, it's deceptive in a manner that violates the FDCPA.

So, that's our position on whether they're debt collectors or not. And Mr. Nobile will talk a little bit about what parts of the statute that they're violating.

THE COURT: Thank you.

Mr. Nobile, you may proceed.

MR. NOBILE: Your Honor, good morning again. And thank you.

For the record, I am Jim Nobile.

Counsel, good morning, also.

My part of this presentation, Your Honor, deals with whether the FDCPA, itself, has been violated on the assumption that, first of all, Special Counsel are debt collectors. So, we're past that hurdle in our argument. So I will try my best not to rehash some of the arguments.

When you look at the FDCPA -- and we talked about it from an intellectual standpoint -- it's very hard, because we're all lawyers, but the law commands us to view each violation from the viewpoint of a completely different person. And I think, after you go to law school, you would agree with me that you don't think the same. It's a completely different [29] process. I was told that by my first-year torts professor, indicating that, after you leave your first year of law school, you'll never be the same again in the way you view how events and things happen in life. And I think that's true. However, the law says, look at it from the least sophisticated consumer standard. And Ms. Phillips was indicating that that's an objectively reasonable standard. And I agree, but it's not an objectively reasonable standard by a reasonable person. It is an objectively reasonable standard by a least sophisticated consumer.

It occurred to me that maybe I ought to take a little bit further look, Your Honor, at the law and what the Sixth Circuit really means by that. And I'm quoting from a case, a fairly recent case out of the Sixth

Circuit called Miller vs. Javitch, Block and Rathbone. The Court, the Sixth Circuit in this case, basically said, in determining whether a statement qualifies as misleading, it employs an objective least sophisticated consumer standard. And, you know, it protects the naive consumer while preventing liability for bizarre or idiosyncratic interpretations of collection notices by preserving a quotient of reasonableness and presuming a basic level of understanding.

Your Honor, if I may, can I pull this out?

THE COURT: Sure.

MR. NOBILE: Thank you.

[30] (Mr. Nobile utilizes the ELMO.)

MR. NOBILE: If a consumer gets that, they think they got that from Mike DeWine, the Ohio Attorney General, period. It's the first thing they see. It's prominently set forth on the top. It's on the stationery.

The question becomes: The least sophisticated consumer opens their mail. What do they see? That's what they see. The first thing they're saying is, well, where did that come from? That's coming from Mike DeWine.

Now, they may read along a little bit further, as they're generally supposed to, and they may also see another lawyer who signed it. And that lawyer may even, at some point, list that they're outside counsel or, in some cases, Special Counsel for the Ohio Attorney General's Office. But from the least sophisticated consumer's standpoint, they think they got that from Mike DeWine, period.

Is there anything else to really say about that? Well, if you don't like the severity of that statement, you can say this: At the very minimum, that's confusing. It's confusing. You've got letterhead that's used by Mike DeWine for just about everything else. It's attached to this letter. And strapped to it is another attorney's name that seems to have a completely different payment address and a completely different location to communicate with them.

This is just another version. Again, prominently [31] displayed. The least sophisticated consumer sees this. I got something from the Office of the Ohio Attorney General. Contains another lawyer's name, another lawyer's address. At a very minimum, Your Honor, it's confusing.

So, in looking at what that means, before I get into the actual statute, I looked up another case last night, kind of to get an idea of about what the FDCPA means when something is false, misleading, because we don't like those words. That just sounds like somebody is deliberately coming out there to trick you or do something of that nature. And I think a very strong argument could be made that that's what's really happened here, from a tactical standpoint, to get more money into the coffers for the State of Ohio. But that aside, when I look at it, to -- and this is in the case of Federal Home Loan Mortgage versus Lamar, Your Honor. And this is a 2007 Sixth Circuit decision, 503 F.3d 504.

Now, the Court in this case basically said, whether or not a communication is false, deceptive, or misleading is an inquiry similar to whether a communication is confusing in the eyes of the least

sophisticated consumer. So, against that backdrop, we now look, Your Honor, to the statute itself. And we're reminded in looking through the cannons of statutory interpretation that, in a federal situation, we look at statutes for their plain meaning.

I'm going to work backwards here, Your Honor. I'm [32] going to start with Subsection e(14). The way the FDCPA breaks it out for false and misleading statements or deceptive statements is -- it's all embodied, and all codified, under 1692e, and there is a subset of many different factors. And when you look at it and you start trying to digest and categorize what happens, they break it out into these sections.

And I was reminded by my colleague, Mr. Zieg, that maybe we don't have to interpret so hard on this because, if it fits within one of those laundry list of items, Congress has already said that's prima facie false, misleading, or deceptive; you don't have to determine whether it is; if it fits within that list, it is. It says it's simply a violation of the law.

So, under 1692e(14), a debt collector cannot use any business name, company, organization name other than the true name of the debt collector's business, company, or organization. That's what it says.

Go back to our example. Taking a step back, at a very minimum, it's confusing. There is two different names. Implied within the statute, Your Honor, is that you have one true name. Well, the one true name in this case -- we can't see the name -- is a completely different lawyer who has got a completely different office, yet, Your Honor, he's using letterhead stationery supplied by the Attorney

General to give the impression that there is another party or another name [33] involved. Because he's using another name other than his true name in this case or the company's true name in this case, that's just a straightforward violation. You don't have to decide whether it's deceptive. You don't have to decide whether it's misleading. You don't even really have to decide whether it's confusing. It just is.

That's what they're doing. They're using a name other than their own true name. And the only way to get out of that, as Mr. Willison had already described, is if they're an officer or an employee. We know that they're not an employee, because they've stipulated to that, and we also know from our other analysis that they're not an officer. So, if they're a debt collector, they've violated this section of the statute by using that letterhead.

If that weren't enough -- we're moving back through the statute -- now we get into what I would call the second strongest argument here. And that's under 1692e(9).

Under 1692e(9), it is improper and a violation of this section -- without regard to whether or not we have some separate analysis as to whether it's false, misleading, confusing, it just is a violation if you use or distribute any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by any court official or agency of the United States or any state or which creates a false impression as to its source, authorization, or [34] approval.

A lot of words in there. When you filter them out, Your Honor, in looking at the letters, looking at the contracts and the other stipulations of fact that were

put in there, what we know is that this letterhead simulates -- it appears to be a letterhead from the Ohio Attorney General. We don't even have to assume that. It is because they're commanded to do it by the Attorney General. So, it definitely simulates. It is a document. And it appears to be simulating a document that's issued by an official and/or the State in this case.

If you accept counsel's argument that somehow debts certified to the A.G. become the A.G.'s debt and not the State's debts, you know, by whatever argument, this letter, at a minimum, under that section, simulates a document issued by the Attorney General.

It doesn't say it has to be true, that there's truth in it. I think there is truth in it. But, again, just looking back from the least sophisticated consumer's standpoint, that's just confusing. It had two different names. You know it violates e(14), but it also violates this section because it simulates a document issued by the A.G.

The next part of that sub-provision, Your Honor, also says it's a prima facie violation if it creates a false impression as to the source of the letter. Okay. That requires a little bit more in depth look at it because now [35] we're interpreting what "false impression" means.

Congress, in this part of that subdivision, created another sort of standard of analysis: a false impression as to the source. Well, anybody who is looking at this letter is believing that the source is the Office of the Attorney General, and we know that that's not true. It didn't come from the Office of the Attorney General. It was mailed. It was distributed.

It was prepared by Special Counsel. If Special Counsel are debt collectors and they prepared, mailed, distributed the letter, it violates this section if they use that letterhead because now it gives the impression, falsely, as to who sent it. It didn't come from the Ohio Attorney General. It came from Special Counsel. That's in the stipulations also, Your Honor.

The State had to stipulate that they didn't -- they didn't prepare the letter. In fact, they didn't even mail it. They didn't put a stamp on it and send it out. They just instructed them to use it.

So, Your Honor, in addition to e(14), e(9) has been violated. I'm not going to bore Your Honor with the other two. There is e(10), which is a more amorphous one. It's kind of a catch-all. Any deceptive communication is going to violate the statute. That would require, again, some analysis here as to whether or not this, from the eyes of a least sophisticated consumer, is confusing. And I think, at a minimum, we can say [36] that about the letters that are being sent. Whether they were something more than that remains to be seen, but I don't know that we need to get there. At a minimum, they're confusing.

Now, the other section is 1. And under Subsection 1, we get into communications that appear to allow for the use of letterhead where there is an affiliation associated with the State.

"Affiliation," Your Honor, is not a term that's defined in the FDCPA. We don't want to dwell on that section, because we don't believe the Court needs to, particularly with the cases that are out there. And the particular case dealing with e(14) on

using a name other than your own I think pretty much cements what we believe should be the proper conclusion. But affiliation, in this case, means something more than an independent contractor.

When I hear the arguments that are raised by counsel, it disturbs me because one thing we also learn is, when you have a contract, unless it's ambiguous, you read the contract for what it says, and it's binding on the parties. So, before walking into this courtroom today, the State of Ohio entered into contracts with these 82, or 83, Special Counsel and agreed -- their meeting of the minds was, you're independent contractors. Now they came in here and took a step aside and said, well, I don't know about independent contractor. Yeah, we tell them that's what it is, but, you know, we think there [37] is a closer connection or some sort of closer affiliation that this Court should recognize to fit them, or shoehorn them, Your Honor, into some sort of official or employee status so they don't fall under the FDCPA.

Looking back at the letters, one thing is also true: If anything else other than it being confusing, these letters also give the impression that the Special Counsel are employees or officers of the Attorney General. If they were, that's a perfectly fine letter. No matter what you call them, Special Counsel, outside counsel, if they are employees or they are officers, they're permitted to do it. In this case, they're not. So, one interpretation may be a little bit higher, from an intellectual standpoint, than the least sophisticated consumer is going to assume, when they receive something like this, it came from an officer or it came from an employee of the State. It

didn't. We know that. They're not employees. The State stipulated to that. We also know they're not officers because 109.08 doesn't confer upon Special Counsel an officer status.

So, if they're not an officer and they're not an employee, we've got to look at what their contract says, because that's what they agreed: Anything outside that contract really is parole evidence, really shouldn't even be talked about, much less argued, in a court. They're independent contractors. They're debt collectors.

[38] Now, when you look at the State of Ohio, on the one hand, you can go over here and make a parallel comparison to what happens in private industry. The State of Ohio is set up very similarly. Let's take Macy's for example. Macy's is a corporation. Macy's issues credit. Macy's has a legal department. Macy's has needs within its legal department to keep certain things in-house. And at times, it needs to employ outside attorneys. And there is a whole set of bylaws within the corporate structure that allow for that to happen.

Now, on the one hand, you've got Macy's. On the other hand, you've got the State. Well, the State is an organization. It has a lot of needs. It issues credit. It issues services that require repayment. It has a collections department just like Macy's does, and it also has a staff of attorneys through the Attorney General. And at times, the Attorney General needs assistance just like the in-house counsel for Macy's needs assistance to collect debts.

So, on the one hand, we have, with the State, 109.08. It says we can appoint Special Counsel to do that. But, interestingly, 109.08 restricts what that

Special Counsel's actually supposed to do with the letterhead, doesn't it? It doesn't say anything in that statute about non-tax debts. In fact, that statute is very specific, and it says that use of the letterhead in that instance pertains only to tax debts.

I didn't make the statute up. That's just what it [39] says.

Now, on the other side, you've got your bylaws that tells in-house counsel, you can hire outside counsel. If what the State is arguing is really true, then they've -- and convinces this Court to create some sort of judicial exception that doesn't exist within the statute, you can imagine what that's going to do on the outside.

Well, I'm the Special Counsel for Macy's, and I'm going to use Macy's letterhead, and I'm going to abuse every collection process I can to collect the debt for Macy's. Now, there is a very similar section not just for state employees or state officers. There is one for corporate employees and corporate officers who are collecting their own debts.

So, now, for the State, if we accept their argument that they're all affiliated and they should be considered the same and they're collecting their own debt -- I guess that's their argument -- they could never really tell us precisely what that is, but assuming that's what it is, haven't they now just created a new model for collection to get around the FDCPA?

The answer is yes.

I'm going to appoint Mr. Willison, now, as Special Counsel for Macy's. I'm in-house counsel. I'm going to appoint him. And, Mr. Counsel, you need to use

Macy's [40] letterhead. I want you to use that when you collect. Collection of our debts is very important. We have to have these debts collected. We want you to use the most aggressive means possible. And don't worry about the FDCPA, because you're an employee, or you're something. But, by the way, here is a contract. I want you to sign this. For all other reasons, you're just an independent contractor.

That's the argument I'm hearing, and that disturbs me, Your Honor.

In the end analysis, we're asking the Court to find that Special Counsel are what they are, independent contractors and debt collectors, when they collect consumer debts. We're not getting into the other issues as to whether or not they can perform other functions of the State, but we're certainly asking the Court to find that they are, for the purposes of non-tax debts, collecting consumer debts that would have application under the FDCPA.

We're also asking, Your Honor, that, for the purposes of this case, that the use of that letterhead violates federal law. And in issuing a decision, that's what we would ask.

Now, with regard to the two State statutes, I don't know that I'm in complete disagreement with Ms. Phillips on the Deceptive Trade Practices Act. We're at a disadvantage here because we didn't really make the kinds of allegations in a letter that you would see in a complaint. We didn't file a [41] complaint. We were getting ready to. Whether or not we were actually going to include that as a cause of action or not is something that we just didn't really push forward.

I think there is a loose argument in there concerned around whether or not the service being passed off is that of another, but not something we're prepared to push forward with. However, we do, for the reasons already stated by Mr. Willison, believe that in the case where, here, there are specific enumerated violations of the FDCPA, there are equivalent violations of the Consumer Sales Practices Act.

And, Your Honor, I'll conclude with that for my part of the presentation and ask that your ruling reflect our position.

Thank you.

THE COURT: Thank you, Mr. Nobile.

Ms. Phillips, or anyone else on behalf of the State of Ohio, do you wish to respond?

MS. PHILLIPS: Yes, Your Honor. May we have rebuttal?

THE COURT: Sure.

MS. PHILLIPS: May it please the Court, the first point that we would like to make is that the issue of being an independent contractor or being a debt collector is not before -- necessary to the Court's decision because we believe that the issue of deceptiveness or not is the first decision to [42] be made and that, therefore, you would not need to reach those other issues. So, we would ask that a two-step analysis be applied and that you don't have to go forward all the way if you don't -- if we get through the first step.

First of all, there is no case presented by any of the parties that addresses appointments of Special

Counsel pursuant to Revised Code 124.11 as members of the unclassified civil service of the State of Ohio. The question of whether or not they are -- Special Counsel are independent contractors is irrelevant because their authority is derived from a statutory appointment that is unique under state law. This appointment authority is pursuant to the Constitution, and the civil service has been around for -- and the appointment authority has been around a lot longer than the Fair Debt Collection Practices Act.

Special Counsel are not merely in a contractual relationship. The independent contractor status defines their compensation, their tax structure and their pension and Workers Compensation benefits, but not their authority. For example, in the ethics opinion, first of all, it's interesting to note that the ethics opinion does not address Revised Code 124.11, although it was in place at the time, but it was limited to the purposes of Revised Code 102.04 regarding the payment of being able to be paid by more than one authority.

Your Honor, I think that this would, obviously, lend [43] itself to being very narrowly defined because what you're basically saying is that government officials cannot wear multiple hats. And I'm sure you're aware that, as a general matter, many government officials wear multiple hats. So, I think that it was intended, under 102.04, to be a very narrow reading of the term "officer of the state."

There is not a definition of "officer of the state" under the Fair Debt Collection Practices Act. Frankly, it's my understanding that the definition of an "officer of the state" is much broader under the

Fair Debt Collection Practices Act than in the ethics opinion. And, in addition, it's so broad that there is a third option.

We've talked about independent contractors. We've talked about employees. We've talked about officers, but there is a government actor. And that standing is much broader than officer, and it has been used under that exact language. And I'll talk about those cases in a second.

Now, regarding the issue of one true name, yes, Special Counsel are the senders, per their return address, as required in the Peter vs. GC Services case, but the source of the letter is the Attorney General's Office. Just as when the Attorney General writes a letter and it is signed by an Assistant Attorney General, that address is different than 30 East Broad Street where the Attorney General, himself, is housed. The Attorney General has many offices and many [44] addresses, and no case holds that the truthful use of two names is wrongful.

In the Keefer vs. Wiles case that's been cited, Judge Marbley did not even reach the decision because the facts did not -- this was a decision on the pleadings, and the facts did not even include whether or not the Special Counsel in that case had been appointed. So, you know, the issue was never raised, was never addressed.

Again, I've mentioned before the Gradisher case only involved a contract, not an appointment. That was the sheriff. Like a law firm, it does not matter if a letter comes from a partner, an associate, or a staff attorney. And probably many staff attorneys are hired as independent contractors, but when they write their letters as staff attorney to the law firm,

they are under the umbrella and they are part of the law firm.

Similarly, a special master appointed by the court has authority to conduct trials for the court. Again, it's fair to say that many special masters are paid as independent contractors and do not have offices in the courthouse but work from home for much of their activity and opinion writing.

Under Gammon, the Gammon case, the parties have -- again, going back and forth -- the defendant argues that the purpose of the use of the letterhead is to elevate the debt above all others. Oh, my goodness! It's the State!

Well, that is true. The purpose of the use of the [45] letterhead is to advise consumers that this is a debt of the State of Ohio. And, yes, it does have some significant consequences attached to it that, frankly, Visa's debt do not have.

Basically, what they're arguing is that the Attorney General's Office or the State of Ohio should not collect its debt because its purpose would be to elevate those debts above Visa and others and put Visa and other creditors at a disadvantage and that's not appropriate.

The collection of this debt is of great importance to the State of Ohio, and it is important that the debtors are aware that this is debt of the State because there are consequences to State debts that there are not for other debts. Also, pursuant to 131.02 of the Revised Code, the Attorney General does have a legal obligation to collect State debt.

Now, in the Gammon case, the decision was that the collectors had falsely stated that they could use

government systems. Here, the Special Counsel can use the Attorney General's systems. In addition, in Brannan vs. United Student Aid Funds, 94 F.3d 1260, Ninth Circuit 1996, cited by the defendants, USA Funds, a private guaranty agency that guarantied certain loans pursuant to contracts with the U.S. Department of Education, was found not to be a government actor exempt from the Fair Debt Collection Practices Act.

Again, this was only a contract, not an appointment.

[46] Under 15 U.S.C. 1692a(6), a debt collector is defined as any person who uses any instrumentality of interstate commerce or the mails to collect debts, but the definition specifically excludes any officer or employee of the United States or any state to the extent that collecting or attempting to collect any debt is in the performance of his official duties. And, of course, "state" is defined as any state, territory, or possession of the United States.

In the legislative history, it indicates that the Fair Debt Collection Practices Act is not intended to include government officials such as marshals and sheriffs while in the conduct of their official duties. That's the Georgeadis vs. County of Fairfield case, 2000 U.S. District, Lexis 21724. It's Case Number C-2-99-204, Southern District of Ohio, 2000. That case was quoting Parrish vs. City of Highwood, 1998, U.S. District, Lexis 17470, Case Number 95-C-4438 from the Northern District of Illinois in 1998. Granting -- in that case, they granted summary judgment to the city and a police officer because the defendants were not debt collectors under the terms of the Act.

The Fair Debt Collection Practices Act does not define the term "officer or employee of the United States or any state." Accordingly, these words must be accorded their ordinary meaning. For example, under Limited, Inc., 286 F.3d, at 332, a dictionary may be an appropriate source for [47] determining a word's ordinary meaning. See Koyo Seiko Company vs. United States, 36 F.3d 1565, Federal Circuit 1994, or IBM vs. U.S., 201 F.3d 1367, Fed. Circuit 2000.

"Officer" has been defined as a person who holds an office of trust, authority, or command. The "public affairs" term refers especially to a person holding public office under a national, state, or local government and authorized by that government to exercise some specific function. In corporate law, the term refers especially to a person elected or appointed by the board of directors to manage the daily operations of the corporation, such as a CEO, president, secretary or treasurer.

Under Black's Law Dictionary, 1117, 8th Edition, 2004: Within the context of this definition, the ordinary meaning of "officer" would extend only to a natural individual. Therefore, an officer of the United States or state is a specific natural individual who holds public office.

Ohio's Civil Service scheme is embedded in the Ohio Constitution and Revised Code Chapter 124. And that has been referred to in Chubb vs. Ohio Bureau of Workers' Compensation, 81 Ohio St. 3d 275, 1998.

Volunteer fire fighters are in the civil service, granted state affiliation regardless of whether or how they are paid. For example, see Peters vs. City of

Jackson, 653 N.E.2d 1238, Jackson County Court of Appeals, 1995. Their status as [48] part of Ohio's government is not an artifice designed to thwart the Fair Debt Collection Practices Act, but, rather, is a legitimate extension of the state to those who conduct its official duties.

In the case Heredia vs. Green, 667 F.2d 392, Third Circuit, 1981: A landlord and tenant officer of the Philadelphia Municipal Court was held to be a state officer exempt from the Fair Debt Collection Practices Act.

Under Heredia, important factors included not only the form of the notice in question, but, also, the entire procedure involved in the case were designed and approved by the president judge.

In this case, the form of the notice and the procedures are designed and approved by the Attorney General.

The landlord and tenant officer had no authority to charge any fees other than those specifically authorized by the president judge.

Again, the Special Counsel have no ability to charge their fees other than as set forth by the Attorney General.

In addition, the fees were statutorily authorized by Pennsylvania statute. And, in Heredia, the notices at issue contained the seal of the municipal court, and the reviewing court noted favorably that the notice is designed to impress upon the tenants that the municipal court is involved to assure the tenant's attention and prompt response and to explain [49] clearly that, unless the delinquency is paid, an eviction action will be commenced in the future.

The relationships in Heredia are nearly identical to those at issue herein and support the conclusion that the Special Counsel are not debt collectors as defined in the Fair Debt Collection Practices Act. Clearly, they are debt collectors because they collect debts in the ordinary meaning of the word, but the question is whether they are exempt because they are not debt collectors if they are exempt under the Act.

In the contract, it does say that the Special Counsel are to follow the requirements of the Fair Debt Collection Practices Act. That is something that the Attorney General believes is not required by them but is a good practice. And so, for those reasons, they are required, by the contract, by the Attorney General, to follow those provisions to protect the debtors, because the debtors are our citizen voters. And that is the purpose of the Attorney General's Office, is to treat our debtors properly and legally and fairly. But that does not mean that, because they have been required by contract to adhere to that law, that they are not -- that they are actually subject to that law.

In Weiss vs. Weinberger, 2005 U.S. District, Lexis 11876, Northern District of Indiana, Hammond Division, in 2005, a court-appointed receiver was held not to be a debt collector [50] in the fair -- under the Fair Debt Collection Practices Act because receivers are well known to be officers of the appointing court.

I would submit that receivers are not the sort of officer that the ethics opinion would have included as an officer under the 102.04 analysis in the ethics opinion relied upon by the defendants. And even if they were not officers, the Fair Debt Collection

Practices Act -- the case law is divided as to whether even a corporation, a nonprofit corporation or other corporation, is a debt collector under the Fair Debt Collection Practices Act. It is not a slam-dunk decision and has been ruled upon in several directions. For example -- and they are considered government actors, is where the statement comes.

The issue arose in the context of student loan guarantees -- student loan guarantee agencies, I should say -- which may administer the guarantied student loan program and may either be a state guaranty agency or a private nonprofit agency operated in conjunction with a state department of education.

In Games vs. Cavazos, 737 F.Sup. 1368, District of Delaware, in 1990, held that a private nonprofit guaranty agency fell within the exception to the definition of "debt collectors" in 1692a(6)(C) because it was a government actor. Again, it is not identical to the standard that was employed by [51] the ethics opinion. It's a much broader standard.

Also, in Pelfrey vs. Educational Credit Management Corporation, 71 F Supp. 2d 1161, Northern District of Alabama, 1999, the Court did not reach the issue, but noted that the Games decision was squarely in conflict with the decision in Brannan vs. United States Aid Funds, which the Brannan case was cited by the defendants.

Although there are a number of decisions that hold that collectors who are merely independent contractors who are in a contractual relationship with the government to collect government debt are not excluded from the definition of a debt collector by Section 1692a(6)(C), there is no binding precedent in

this circuit and none of those courts considered contractual relationships and/or appointments that were as closely intertwined as those between the Attorney General and its external collectors.

Also, one point. The defendants had mentioned that the Special Counsel were required to indemnify the State pursuant to the contract. If you look at Revised Code 9.86, State employees are also required to indemnify the State if they exceed their statutory authority.

So, looking at the definition of a debt collector, we don't believe that the Special Counsel are debt collectors. As a matter of fact, we don't believe that the operations of the collections enforcement section are, as a whole, subject to the [52] act. But that, again, is not a decision that needs to be made in this case because we believe that the most important decision is whether or not the letters, themselves, are misleading, even to the least-sophisticated consumer.

There is ample opportunity to use two names in one letter as long as it is accurate. These letters are from the Attorney General's Office just as if an Assistant Attorney General had sent the letters. And it's our position that the Attorney General is entitled to a declaration that the use of the letterhead by Special Counsel does not violate the Fair Debt Collection Practices Act, the Deceptive Trade Practices Act, or the Consumer Sales Practices Act.

THE COURT: Thank you, Ms. Phillips.

Counsel for the defendant, sur-reply, if you wish.

MR. WILLISON: Thank you, Your Honor.

I must be the least-sophisticated attorney because

THE COURT: I knew somebody was going to say that.

MR. WILLISON: Yes, because I thought I heard the State argue, or tell us in their opening salvo, that they have debtors calling them up all the time when they receive these letters from Special Counsel saying: What is this? I don't understand. And they call the AG's Office. They don't call the law office of Eric Jones or law office of so-and-so. They call the AG's office. They're confused. But now they're telling us that it's not confusing. So I'm -- again, I'm [53] confused.

We have to keep in mind, too, that the FDCPA is a consumer protection statute. It's a remedial statute. It's entitled to a broad interpretation, a liberal interpretation, in favor of its coverage.

She says there is no case saying that Special Counsel aren't officials, but that is sort of pleading the pregnant negative. Their contracts say they're independent contractors. They say they're debt collectors in their letters. You know, it's sort of, don't believe what they're saying and don't believe what they're doing; believe what we're saying.

She talked about it covers government actors. The FDCPA is very specific. You get the exception if you're an employee or an officer. It doesn't say an employee or an officer or a government actor. It says employee or officer. They've already stipulated that they're not employees. And, by the way, in that Heredia case, this fella who was working for the

court, the landlord/tenant worker, he's an employee. Again, that doesn't -- that doesn't get us anywhere.

Then we talk about this one true name. Well, note the use of the word "name." There is no "s" on the end of "name." You can't -- it says -- it's singular. You can't have two true names. And, secondly, even if you could have two true names, the FDCPA says you can only use one true name. So there is no way that you can say that they can use both names without [54] violating e(14).

They talk about how important it is for the consumer to understand the consequences of neglecting this debt. These consequences, Your Honor, are so important that nowhere are they specified in the letters.

What they're getting at is, we are law enforcement. And that's the impression they want to leave with these people. They don't say in their letters: By the way, you should pay attention to this because we could take your tax refund; we could take your casino winnings; we could disqualify you from applying for certain jobs if you don't have your debts paid.

If that's so important, why isn't it in the letter? It's not. All they do is put that logo up there because they know that's what scares people. Then they said, well, gee, if you rule in favor of the defendant, then the A.G. can never collect its debt.

We're not saying they can't collect their debt. They can collect their own debt. If they want to hire Ms. Phillips or they have Ms. Phillips and she's an employee of the A.G.'s office, she can write letters, and she can put the A.G.'s letterhead on there, and she won't hear a peep from us. But you can't bring in

these independent contractors, these third-party attorneys who don't have anything to do with you other than signing a contract to collect debts for one third of what they get.

[55] Lastly -- well, second to lastly, they talked about holding an office. There is no office of Special Counsel. They don't hold an office. They've been engaged as attorneys to represent – and debt collectors -- to represent the Attorney General's Office to collect these debts. They have not been appointed to an office. And that's where that Ethics Commission issue is still important. They haven't been appointed to an office.

The other thing that is most troubling, I think, in this whole case is that the Ohio Attorney General is supposed to enforce the law. They're not supposed to send out their letterhead to allow other people to break it.

Thank you, Your Honor.

THE COURT: Thank you, Mr. Willison.

Ladies and gentlemen, thank you for your oral argument, your briefing, and your stipulations. The Court will try to issue its decision in due course.

"Due course" doesn't mean anything. Okay? I just don't want you guys calling me up and saying: Well, you said "due course," and we assumed that meant two weeks, or one day, or something like that.

It doesn't mean anything. We'll get to it when we can get to it.

Thank you.

(Whereupon, the proceedings were concluded at 10:28 [56] a.m.)

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[57]

CERTIFICATE

United States of America

Southern District of Ohio

I, Denise N. Errett, Official Court Reporter of the United States District Court for the Southern District of Ohio, do hereby certify that the foregoing 56 pages constitute a true and complete transcription of my stenographic notes taken of the proceedings held in the afore-captioned matter on the 30th day of January, 2013.

In testimony whereof, I hereunto set my hand on the 8th day of March, 2013.

/s/ Denise N. Errett, FCRR
Denise N. Errett, FCRR
Official Court Reporter
Southern District of Ohio

Doc. 48-16 **EXHIBIT G**

[Letterhead of Ohio Ethics Commission]

Advisory Opinion 75-016
August 19, 1975

Syllabus by the Ohio Ethics Commission:

> Special counsel, appointed by the Attorney General of Ohio pursuant to Section 109.08 of the Revised Code, are independent contractors and therefore are not prohibited by Section 102.04 (A) of the Revised Code from receiving or agreeing to receive, directly or indirectly, compensation for services rendered or to be rendered by them personally, in any case, proceeding, application or other matter which is before the General Assembly or any department, division, institution, instrumentality, board, commission or bureau of the state.

* * * * * *

Your request for an advisory opinion asks whether an attorney appointed by the Attorney General of Ohio as special counsel, pursuant to Section 109.08 of the Revised Code, falls within the purview of Section 102.04 (A) of the Revised Code. You state you are an attorney actively engaged in the private practice of law and as such personally represent clients, for compensation, in matters before various agencies, departments, boards, bureaus and commissions of the State of Ohio. You further state, the attorney general has appointed you special counsel to collect claims certified to the attorney general as owed to

various state departments and agencies. Section 102.04 (A) of the Revised Code states:

> "No person elected or appointed to an office of or employed by the general assembly or any department, division, institution, instrumentality, board, commission or bureau of the state, excluding the courts, shall receive or agree to receive directly or indirectly compensation other than from the agency with which he serves for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter which is before the general assembly or any department, division, institution, instrumentality, board, commission, or bureau of the state, excluding the courts."

Special counsel are not within the purview of Section 102.04 of the Revised Code by virtue of being "elected to an office" nor do they seem to be "appointed to an office" of an instrumentality of the state.

To be "appointed to an office" the position to which the appointment is made must be a constitutionally or statutorily created office. Section 109.08 of the Revised Code states:

> "The attorney general may appoint special counsel to represent the state in connection with all claims of whatsoever nature which are certified to the attorney general for collection under any law or which the attorney general is authorized to collect.

> Such special counsel shall be paid for their services from funds collected by them in an amount approved by the attorney general."

Thus, the attorney general may through appointment, engage special counsel, under the provisions of Section 109.08 of the Revised Code, to collect those claims certified to the attorney general from other agencies of the state for collection or such other claims as the attorney general is authorized to collect.

Special counsel of the attorney general, thus, are not appointed to an office of an instrumentality of the state for purposes of Section 102.04 (A) of the Revised Code but are rather engaged as an agent of an elected officer of the state.

The issue of whether special counsel fall within the purview of Section 102.04(A) of the Revised Code, thus, turns upon whether they are "persons employed by any instrumentality of the state" as that phrase is used in Section 102.04 (A) of the Revised Code. The Ohio Ethics Commission has determined that independent contractors of public agencies are not included in that class of persons described by the phrase "employed by" as used in Section 102.04 of the Revised Code.

The Ohio Ethics Commission in Advisory Opinion No. 75-012 applied the following tests to distinguish employees from independent contractors:

> (a) the extent of control which, by the agreement, the master may exercise over the details of the work;

(b) whether or not the one employed is engaged in a distinct occupation or business;

(c) the kind of occupation, with reference to whether, in that locality the work is usually done under the direction of the employer or by a specialist without supervision;

(d) skill required in the particular occupation;

(e) whether the employer or the workman supplies the instrumentalities, tools and the place of work for the person doing the work;

(f) length of time for which the person is employed;

(g) the method of payment, whether by time or by job;

(h) whether or not the work is a part of the regular business of the employer; and,

(i) whether or not the parties believe they are creating a relationship of master-servant.

The Ohio Ethics Commission went on in that Advisory Opinion to establish, for purposes of the ethics law, as the primary test, (b), whether the one employed is engaged in a distinct occupation or business. The Commission cautioned, however, that seldom does this test, standing alone, control, and the other tests must also be examined.

It is necessary, therefore, to apply all of the tests listed above to the relationship of the attorney

general and special counsel as that relationship is established by Special Counsel Outline of Procedures (Revised January 1971) published by the Claims Section, Office of the Attorney General, Section 109.08 of the Revised Code; and the specific situation of the individual appointed special counsel.

(a) Extent of Control

Special counsel are authorized to act on those specific matters referred to them by the attorney general, in the manner prescribed by statute, and as directed in the Outline of Procedures. However, no control is exercised by the attorney general over the manner in which special counsel collect claims other than those statutorily imposed limits placed on any individual or entity responsible for the collection of claims.

(b) Distinct occupation or business

You state you are an attorney actively engaged in the private practice of law. Therefore, you have an occupation, that of the private practice of law, distinct from the attorney general's occupation, that of chief law officer of the state.

(c) Kind of occupation; with reference to supervision

The initial collection of claims owed the state is usually done by special counsel rather than employees. Engaging special counsel rather than full-time salaried employees to collect claims on a contingency basis allows the attorney general to more economically and efficiently collect claims. Thus, the initial collection of claims is work usually done for the attorney general by special counsel without supervision rather than an employee.

(d) Skill required

Since special counsel are hired for their legal expertise, it would be reasonable to conclude they have particular skills required for the collection of claims.

(e) Supplies, instrumentalities, tools and place of employment

The attorney general does not provide special counsel with office space, resource material, clerical services, or any other office supplies. The Special Counsel Outline of Procedures particularly stated special counsel may not use attorney general's office stationery but must provide their own. Thus, special counsel provide their own instrumentalities, tools, and places of employment.

(f) Length of time for which the person is employed

Neither, Special Counsel Outline of Procedure, Section 109.08 of the Revised Code nor the letter of appointment which you enclosed with your request specifies the exact length of time of the appointment. The letter of appointment, however, states special counsel shall represent the attorney general in such matters as may be referred to special counsel "from time to time" by the attorney general. This suggests special counsel are hired on a project-by-project basis rather than as full-time or part-time employees.

(g) Method of payment

Section 109.08 of the Revised Code provides, that, special counsel appointed under this section are paid for their services from funds collected by them in an amount approved by the attorney general.

The Special Counsel Outline of Procedure describes the method of payment or non-payment and provides that no expenses incurred in the collection of claims will be paid by the attorney general; that fee checks will be sent monthly after the collections are remitted in full to the attorney general; and that the fees are paid at the attorney generals discretion; as provided in Section 109.08 of the Revised Code.

(h) Whether the work is part of the regular business of the employer

The collection of claims certified to the attorney general or claims which the attorney general is otherwise authorized to collect is, by statute, a part of the regular business of the attorney general.

(i) Whether the parties believe they are creating the relationship of master-servant

Your request for an advisory opinion indicates you believe that the relationship is that of an independent contractor. You state that, "I receive no compensation from the attorney general for my services other than a percentage of funds actually collected by me on a contingency basis. My compensation is not subject to withholding for federal or state income tax and I am not eligible for Public Employees Retirement System membership or state hospitalization and other employee benefits. I am not subject to supervision of the attorney general in the collection of claims, other than the establishment of broad policy guidelines applicable to all claims certified to him, and I may refuse to accept any claim which may be referred to me." In addition, the attorney general has traditionally distinguished special counsel from

regular employees of the attorney general in method of payment, hours worked, and responsibilities.

In review, the primary test of distinct occupation is determinative in that special counsel have a distinct occupation, that of an attorney engaged in the private practice of law,-and as such seem to be independent contractors. In balancing this determination with the other test conclusions, additional support is found for the determination that special counsel are independent contractors.

The following test conclusions are supportive of the determination:

(a) No control is exercised by the attorney general as to the manner in which the special counsel goes about collecting claims, those limits which are imposed on special counsel are those imposed upon any individual or entity responsible for the collection of claims owed to the State.

(c) Special counsel are hired to do work usually done by a specialist without supervision rather than an employee.

(d) Special counsel are hired because of a particular skill, their legal expertise.

(e) Special counsel provide their own instrumentalities, tools and place of work.

(f) They are employed on a project-by-project basis.

(g) They are paid a percentage of the claims they collect rather than a regular salary.

(i) Both the attorney general and special counsel believed they were creating a relationship of employer-independent contractor.

Thus, in balancing the tests, the Ohio Ethics Commission concludes that special counsel, appointed by virtue of Section 109.08 of the Revised Code, are independent contractors. This opinion does not necessarily apply to special counsel appointed, by virtue of Section 109.07 of the Revised Code or any other Section of the Revised Code, to represent the state in court actions, criminal prosecutions, or other proceedings.

Therefore, it is the opinion of the Ohio Ethics Commission, and you are so advised, that special counsel appointed by the Attorney General of Ohio pursuant to Section 109.08 of the Revised Code are independent contractors and therefore are not prohibited by Section 102.04 (A) of the Revised Code from receiving or agreeing to receive directly or indirectly compensation for services rendered or to be rendered by them personally, in any case, proceeding, application or other matter which is before the General Assembly or any department, division, institution, instrumentality, board, commission or bureau of the state.

OHIO ETHICS COMMISSION
(Mrs.) Barbara H. Rawson,
Chairman

Doc. 60-1 **EXHIBIT 1**

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Case No. 2:13-cv-00212
Judge James L. Graham
Filed: March 4, 2014

PAMELA GILLIE, *et al.*,

Plaintiffs,

vs.

LAW OFFICE OF ERIC A. JONES, LLC, *et al.*,

Defendants.

AFFIDAVIT OF SARAH SHERIFF

STATE OF OHIO)
) ss.
COUNTY OF FRANKLIN)

Sarah Sheriff, being duly cautioned and sworn, deposes and states:

1. She has personal knowledge of the facts recited in this Affidavit.

2. In July 2012, she was employed in the collection department of Wiles, Boyle, Burkholder & Bringardner.

3. She worked under the supervision of Mark Sheriff, who was appointed Special Counsel by the Ohio Attorney General.

4. She assisted Mr. Sheriff in the collection of debts owed to the State of Ohio.

5. She recalls Hazel Meadows being sent communications about a debt.

6. She acted under Mr. Sheriff's supervision and was also subject to the supervision of representatives of the Ohio Attorney General.

7. When communications were ignored in 2007, a lawsuit was filed, and Mrs. Meadows, who had representation by an attorney, signed an agreed judgment entry.

8. As a result of that agreed judgment, Mrs. Meadows made payments for several years.

9. The letter attached to this Affidavit as Exhibit A and to plaintiffs' motion as Exhibit B1 was generated in response from a call from Mrs. Hazel Meadows in which she asked Ms. Sheriff for her balance and well after Mrs. Meadows had signed off on an agreed judgment entry.

10. In response to that inquiry, Ms. Sheriff sent the letter attached as Exhibit A.

11. Since she was responding to an inquiry, and payments were being made, she was unaware that her signature as opposed to Mark Sheriff's signature might be a violation of the law.

12. She does not recall signing any other letter as Special Counsel, as she was responding to a specific inquiry about a balance with Mrs. Meadows.

13. Since she received the call, she thought at that time that it was appropriate for her to sign the letter responding to that inquiry.

14. As the use of state letterhead was required by the Ohio Attorney General, she did not believe or have any knowledge that such use was improper or that it could violate the Fair Debt Collection Practices Act.

15. In her years at the Wiles office, Attorney General letterhead was used in the collection of debts for the State of Ohio.

16. Further affiant sayeth naught.

/s/ Sarah Sheriff
Sarah Sheriff

Sworn to before me and subscribed in my presence this 4th day of March, 2014.

/s/ Kellie S. Kesselring
Notary Public, State of Ohio

[notary seal]

Doc. 60-2 **EXHIBIT 2**

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Case No. 2:13-cv-00212
Judge James L. Graham
Filed: March 4, 2014

PAMELA GILLIE, *et al.*,

Plaintiffs,

vs.

LAW OFFICE OF ERIC A. JONES, LLC, *et al.*,

Defendants.

AFFIDAVIT OF MARK J. SHERIFF

STATE OF OHIO)
) ss.
COUNTY OF FRANKLIN)

Mark J. Sheriff, being duly cautioned and sworn, deposes and states:

1. He has personal knowledge of the facts recited in this Affidavit.

2. In 2012, he was appointed Special Counsel by the State of Ohio to collect state debts. He had a series of such appointments as such appointments are made annually by the Attorney General. In prior years, Bruce Burkholder was the appointed special counsel.

3. He has reviewed the Hazel Meadows file in his office.

4. Mrs. Meadows was contacted in 2007 about a debt that Mrs. Meadows owed the State of Ohio. This debt was the same debt that was the subject of Exhibit A.

5. After these efforts to work with Mrs. Meadows were unsuccessful, a lawsuit was filed, and Mrs. Meadows executed an agreed judgment entry on March 6, 2008 and entered into a monthly payment plan in attempt to pay off the debt referenced in Exhibit A. A true and accurate copy of that judgment entry is attached to this Affidavit as Exhibit B.

6. In order to make sure that letters are signed properly, there are periodic reviews of files.

7. The Attorney General also has detailed procedures and performs annual audits to ensure that these procedures are followed.

8. After Exhibit A was brought to his attention, he had his staff review all the Special Counsel collection files and no other letters which were signed by a staff member as Special Counsel were found.

9. Further affiant sayeth naught.

/s/ Mark J. Sheriff
Mark J. Sheriff

Sworn to before me and subscribed in my presence this 4th day of March, 2014.

/s/ Kellie S. Kesselring
Notary Public, State of Ohio

[notary seal]

EXHIBIT "B"

IN THE AKRON MUNICIPAL COURT
SUMMIT COUNTY, OHIO

Case No. 07CV11656
Judge McCarty
Filed: March 6, 2010

STATE OF OHIO – UNIVERSITY OF AKRON

Plaintiff,

v.

HAZEL MEADOWS

and

Defendant(s)

AGREED JUDGEMENT ENTRY

Now comes the Plaintiff by counsel and the Defendant, with counsel, who now represent to the Court that this case has been settled and compromised and that the Defendant agrees to confess judgment for the full amount prayed for in the Complaint, plus cost, plus interest.

As an accommodation to the Defendant, the Plaintiff has agreed that it will accept $50.00 per month beginning 03/20/2008 and on the 20th of each and every month thereafter until 3/20/2009 then paying $100,00 per month beginning 4/20/2009 until the judgment is fully paid and satisfied.

The Plaintiff agrees that it will not cause any executions to issue other than a Certificate of Judgment to be filed as long as the Defendant makes each and every Installment as agreed. All payments

are to be paid to the office of Bruce H. Burkholder, Attorney for Plaintiff, 300 Spruce St., First Floor, Columbus, OH 43215.

The Court having no objection to the settlement agreement and terms therein, does hereby **ADJUDGE, ORDER AND DECREE** that judgment is granted against Defendant for the sum of $4,500.00, plus costs and interest at the rate of 5.0000% per annum and that the settlement agreement incorporated herein is hereby **CONFIRMED**.

IT IS SO ORDERED.

Dated: 3/6/08 /s/Judge McCarty
Judge

Respectfully Submitted,

By: /s/Bruce H. Burkholder
Bruce H. Burkholder(007443)
bburkholder@wileslaw.com
Mark J. Sheriff(0019273)
Attorney for Plaintiff
300 Spruce St, Floor One
Columbus, OH 43215-1173
614/221-5216 Fax 614/221-0624

/s/Hazel Meadows
(Defendant)
Hazel Meadows
717 S Terrace Ave
COLUMBUS OH 43204

/s/Gary George
Gary George (0064933)
Attorney for Defendant

Unofficial Transcript from
Sixth Circuit Oral Argument

[No official transcript was prepared; this was transcribed from audio available to all on the website for the U.S. Court of Appeals for the Sixth Circuit: http://www.ca6.uscourts.gov/internet/court_audio/audSearch.htm]

March 3, 2015

Clerk Calling Case:	Case number 14-3836 Pamela Gillie and others versus the Law Office of Eric A. Jones and others. Arguments not to exceed 15 minutes per side. Mr. Nobile for the appellant.
Mr. Nobile:	Judge Gilman, Judge Clay, Judge Sutton, my name is Jim Nobile, and I represent Hazel Meadows and Pamela Gillie, the appellants in this case. Judge Clay I ask the court to allow me to reserve five minutes for the rebuttal.
Judge Clay:	Very well.
Mr. Nobile:	In preparing for today's argument, I looked up an old quote I'm sure everybody's familiar with. It's my understanding that it comes from James Witcomb Riley, an Indiana poet. And he observed that when he saw a bird and that bird walked like a duck, it quacked like a duck, and swam like a duck, he could conclude,

as a humorous way of deductive reasoning, that it was a duck. The first problem with this court's, lower court's decision had to do with the court's observation of what should have been the duck; in this case an actual officer of the state of Ohio. The court ruled that special counsel, who we maintain are private ...

Judge Sutton: Your duck/non-duck is employee versus independent contractor? That's your duck versus non-duck point?

Mr. Nobile: In some respects yes...

Judge Sutton: ...So what if I think that's a false dichotomy when it comes to this case and what matters in this case. And that what matters in the material representation here is whether these folks are agents. And it seems to me there's no doubt they're agents of the state.

Mr. Nobile: Yet, your Honor they disclaim agency as a matter of contract with the state that specifically stated in their agreements that they have no agency relationship.

Judge Sutton: No, no, no. They're acting—no they're acting as agents for the state in collecting these debts. They're not disclaiming that, that's the whole point of their agreement. And that's what accurate, you know, not

misleading about the letter.

Mr. Nobile: That they are agents acting on behalf of the state?

Judge Sutton: Yes.

Mr. Nobile: Well, your Honor, I think the same can be said with practically any debt collector that's a third-party collecting for another entity—that they're acting on behalf of that entity to collect the obligations. The definition of whether or not they're a debt collector or, in this case, whether they should be excepted from that definition turns on a different question. Not necessarily the agency.

Judge Sutton: I think when we talk about any other debt collection relationship we don't need to go there. We should talk about ones in which people collect debts on behalf of the state. The state's allowed to do this, the state doesn't have to hire a thousand debt collectors, right?

Mr. Nobile: It's true.

Judge Sutton: It doesn't—this section of the AG's office is allowed to have—whatever it has—10 to 15 people, and then they have a lot more debts than 10 to 15 people can handle. So they can contract out and have these people act as agents of the state to collect the debts. I'm just really puzzled what's

so unusual about that.

Mr. Nobile: I don't think there's anything unusual about it. I think that that is far from a mystery. I think it is actually the answer to the question. But that does not except them from being a debt collector under the FDCPA. Simply because they act on behalf of the state or are an agent of the state, in fact, does not lead to the conclusion that they are a government officer or employee of the state that would entitle them to be excepted from the statute.

Judge Sutton: Fair enough. What then's misleading about these letters? If they're agents of the state and the state wants you to use this letterhead...

Mr. Nobile: The courts' and this court's rulings materiality goes to kind of the heart of whether or not the statement made or the representation made tends to mislead or confuse a reasonable but unsophisticated consumer. So we're not dealing with your Honors, or me, or any of the other lawyers and law clerks in this courtroom. We have a pretty sound appreciation of how things work and what things appear. But the least sophisticated consumer does not. In this case, what was presented to these consumers, as your Honors have probably seen, is a letter that came on stationary and

letterhead with the name Mike DeWine, Ohio Attorney General. And in the other case, the Office of the Attorney General Collections Enforcement Section.

Judge Sutton: But I mean, even the least sophisticated consumer is—we assume will read the whole thing. Right? So they will read where it says Mike DeWine, but they'll also read where it says Eric A. Jones, Outside Counsel for the Attorney General's Office.

Mr. Nobile: Indeed.

Judge Sutton: Okay.

Mr. Nobile So to the least sophisticated consumer, the question back is who sent me the letter? Did I get that from Mike DeWine, or did I get that from, in this case, Eric Jones, or did I get that from the person who inked...

Judge Sutton: Why isn't it crystal clear? Eric Jones, Outside Counsel for the Attorney General's Office that explains why Mike DeWine's name and the attorney general's name is at the top.

Mr. Nobile: And yet, your Honor, the attorney general has in open court informed the district court on more than one occasion that many different telephone calls come to their office

with that very question. Who sent me this letter? I'm getting a letter from Mike DeWine. What exactly is this? And they have to tell them to contact the other individual who signed the letter in the case. Or in this case, Eric Jones or Mark Sheriff. So I think that to the least sophisticated consumer, there's very little that's clear about that letter. What is clear is that the most prominent observance of that letter is the letterhead itself. I mean, that's the one chief characteristic of the letterhead. When I send somebody a letterhead on my law firm's stationary, I want them to know it came from my law firm. And that's why you use stationary. You know, our—underneath all of the arguments that we make, our belief is that the reasons for doing this are pretty clear. That it leads and it creates this sense of urgency and that it's coming from Ohio's chief legal counsel. And it creates in that individual a fear and/or at least a prioritization issue that they should take care of this particular debt before, perhaps, another. And it is that problem, your Honor, that I think...

Judge Sutton: ...so if there's no letterhead but it says the exact same thing— Outside Counsel for the Attorney General's Office— what happens to the case?

Mr. Nobile: There was never a case.

Judge Sutton: That's what a hypothetical is.

Mr. Nobile: No, no, no. That's what I'm saying. There would never be a case, your Honor.

Judge Sutton: You would agree there's no problem there?

Mr. Nobile Right.

Judge Sutton: Even though it says Attorney General's Office?

Mr. Nobile: It does... It does describe that and that's accurate, but it doesn't indicate or simulate a document that came from, directly, the Ohio Attorney General. It just says that—and it could have been said with more clarity, I think, but I don't know that that would rise to the level of the violation that we have in this case. But materiality being what it is—I mean, in our brief I think we indicated that we think materiality, at least with respect to two of the subdivisions that we have, is really a non-issue. It's already subsumed. If you use or distribute a document that simulates government-issued material—that's under e(9)—the use of it is the violation. It's not the false representation aspect of it in which we have a materiality proof element. And the same would be true under

e(14), which is using a name that's not your true name.

Judge Gilman: Do you have any case directly on point that supports your position?

Mr. Nobile: We have cited, your Honor, the case of *Boyco*, and I believe *J.C. Christensen* was the other two cases that indicated that materiality is subsumed into those elements.

Judge Gilman: No, I mean on the key point that the use of, say, a letterhead like this—the Ohio attorney—makes it misleading, gives you a right-of-acts under the Fair Debt Collection Practice Act?

Mr. Nobile: Well, there were a number of cases, your Honor, that we did cite: *Gradisher* was a case from the Eastern District of Michigan in which an individual was using the letterhead of the sheriff's department in a similar fashion. And that was held to be in violation of e(14). That would be the main case. As far as the other cases involving a letterhead or use of names not their own those were all cited in our brief too. *Brannan*, *Palichy*, I think *Knight v. Shulman*; *Kiefer* was a southern district case that actually dealt with special counsel. They never reached the issue but Judge Marbley did lay out what he believed was the test, but that had more to do with the nature of whether or not that individual was an officer or

employee of the state.

Judge Sutton: What happens if it's the Mike DeWine letterhead, Attorney General, then it says Eric Jones, and then it's the Office of the Attorney General? And it says Agent of the Attorney General? Some of the words—in my hypothetical, Eric Jones actually works in the office. Okay? So the name's the same Eric Jones—but he actually works in the office. He's a quote "employee." But it's signed Agent of Attorney General. That's what he puts below his name. That the letterhead—so you still have the same disconnect for the consumer that you're worried about 'cause they're thinking did the Attorney General send this to me? Because I see this on the letterhead. And that's—so you have the same confusion problem there.

Mr. Nobile: Your hypothetical, your Honor—aren't you indicating that the attorney general and an employee of his office actually did send the letter?

Judge Sutton: Well, all it says is Agent of the Attorney General, that's all it says. Plus an address.

Mr. Nobile: I'm sorry, maybe I misunderstood. I thought you had said Eric Jones was actually working...

Judge Yes. In my hypothetical, he is.

Sutton:

Mr. Nobile: Okay well that...

Judge Sutton: So I'm saying you have the same confusion. Did Eric Jones send this as agent 'cause it's signed the Agent of the Attorney General, or did Mike DeWine send this? I don't think you think that's troubling. I don't think your theory of a case would allow that to be troubling, but it seems to me to present the same confusion.

Mr. Nobile: Well, the theory of our case is straight to the issue of whether a third party who has no visible connection to the A.G., the OAG in this case, other than

Judge Sutton Being an agent.

Mr. Nobile: a letterhead itself. Other than being an agent or somebody under contract where they actually disclaim being an agent. There's an entire contract that goes through point-by-point what they can and cannot do. And it just in practically every part of that contract, disassociates...

Judge Sutton: But they're an agent for purposes of what they're doing in these letters.

Mr. Nobile: As are all third-party debt collectors. Agents of the creditors they collect.

Judge Yes

Sutton:

Mr. Nobile: So if your Honor's analogy is—and I'll finish with this—is that a debt collector simply by being an agent is entitled to an exception to the Act...

Judge Sutton: It's not, it's just not misleading. They're an agent. They're an agent of the party in the letterhead. What's the problem with that? IBM has debt collectors, and why can't you send them an IBM letterhead and just say you're a debt collector, you're hired by IBM to collect the debt?

Mr. Nobile: I think that's the real problem here. If that is the slope that we go down, IBM can appoint somebody as a debt collector, they can use or not use. Just not comply with the FDCPA whatsoever. There is no materiality if the FDCPA doesn't apply. If the FDCPA does apply and they use the letterhead that they're an agent and they're not an employee then they're using a name that's not their true name. Thank you.

Judge Clay: Thank you. Counsel you may proceed, on behalf of your client.

Mr. Gentry: Good morning. If it please the court, I'm Boyd Gentry on behalf of the defendants, appellees Eric Jones and law office of Eric A. Jones, LLC. The appellees are in three camps, and we'll be splitting our time five minutes

each.

Judge Clay: Alright.

Mr. Gentry: The special counsel here are not debt collectors because they were authorized by law to perform the duties of the Office of the Ohio Attorney General. Ohio Revised Code § 109.08 specifically permitted the appointment of special counsel.

Judge Clay: The only problem is that your—at least your client and the other defendants—are independent contractors who do not purport to be employees of the attorney general. And the contract makes you responsible for all your own expenses, and you're paid only out of the money you collect. You're not drawing money from the state. That makes you far removed from the attorney general's office except insofar that you're carrying out these specified contract responsibilities. Wouldn't you say?

Mr. Gentry: And that's where this case comes in—is where the special counsel are fulfilling these duties, which they are authorized by law to fulfill.

Judge Clay: But that doesn't make you an officer of the attorney general. Because then you're holding yourself out as being a state actor if you're an officer of the Attorney General.

Mr. Gentry: Well the—what the district court relied on here was a definition of officer from the Dictionary Act saying that you were an officer if you were authorized by law to fulfill the duties of the office. Here, it's our position that the Ohio Revised Code specifically authorized the appointment of the special counsel to fulfill these duties. And so to the extent that they are not fulfilling these duties, to the extent they may carry on other activities unrelated to the attorney general, they would not be officers.

Judge Clay: Well one argument might be that an officer of the state would be authorized to carry out all the duties of the office that he purports to hold. Not just one specified duty. For example, that of a debt collector. I mean, if an officer of the attorney general can carry out the duties of the attorney general and any duties assigned by the attorney general that would be one thing, but if you're hired with one specific purpose which you don't need to be a officer of the attorney general to fulfill, i.e., collecting debts, then it becomes more problematical as to whether you're actually an officer of the attorney general.

Mr. Gentry: I understand that context, and here

we're not arguing that everything that special counsel might do is—puts them in a position of an officer under the Dictionary Act, and we're not saying that everything that the—Mike DeWine could do, that the special counsel are authorized to do. They have a limited appointment, but it is an appointment under law authorizing them to take the very conduct that is at issue here. And so in that sense, they were fulfilling the duties of the office of attorney general. They were not involved in criminal investigations or law enforcement investigations that Mike DeWine might take on. But they were involved in fulfilling their duties to collect debts owed to the state, and that is by statutory appointment. The analysis of employee versus contractor is simply not involved in the definition of officer. And so the idea that someone has a different status of whether they have a W-2 relationship or some 1099 relationship doesn't factor into whether someone is an officer. The only test is, under this part of this case is, were the special counsel authorized by law to fulfill these duties. And...

Judge Gilman: Do you have any case directly supporting your position on that?

Mr. Gentry: Well, it would be the definition in the

Dictionary Act that, and so I'm relying on the statute...

Judge Gilman: Do you have a case that says that?

Mr. Gentry I—we don't have a case involving special counsel appointed under the FDCPA, no.

Judge Gilman: I couldn't find one either.

Mr. Gentry: We do not have it. There are other cases that were—there was liability found under the FDCPA for persons who were not authorized by law to carry out certain official duties, and they were found to have liability, but here there was such authorization.

Judge Clay: Let me ask you this. Since you're an independent contractor and as you go about collecting these debts I presume that you do not receive any day-to-day oversight and supervision by an immediate officer or supervisor in the attorney general's office. In other words, you're delegated the responsibility to go and collect these debts, and you proceed to do that on your own pursuant to the provisions of the contract you entered into with the state. But there's no state employee in the attorney general's office that's sitting there supervising what you do as you go about collecting specifically each and every debt. Would that be a

fair statement?

Mr. Gentry: I'm out of time, your Honor. Is it okay if I respond to that?

Judge Clay: Yes, yes.

Mr. Gentry The—it's true that there is no state W-2 employee sitting in the law office of Eric A. Jones every day supervising this.

Judge Clay: No, no. I mean, is there someone in the attorney general's office who's supervising you on a day-to-day basis as you collect these debts?

Mr. Gentry: It is a very close working relationship that—where there is supervision and requests and sharing of information back and forth, but I don't know if you could describe it day-to-day supervision. The attorney general's office does control and supervise what is done...

Judge Gilman: Look, if you're an independent contractor, that, by definition, means no, nobody's supervising you. That's what makes you an independent contractor.

Mr. Gentry: Well, I guess it depends, I don't know really what the definition of a day-to-day supervision is. Then I guess I'll concede that.

Judge Clay: Well, if you're given instructions to collect a debt from Maple Jones, you're not—there's nobody in the

attorney general's office saying whether you should negotiate the debt on Wednesday rather than Friday or whether you're calling her too much, or whether you're harassing the debtor unduly, or whether you should file suit at this particular time. You don't have that level of supervision with the attorney general I take it.

Mr. Gentry: There's nothing in the records suggesting one way or another on that topic...

Judge Clay: Yeah, but you know what the answer is because your client is doing this or not.

Mr. Gentry: These specific questions were not addressed. I don't know the answer to them personally. How much—the question comes as should you call them tomorrow or is this type of conduct—don't do this—this is harassing? I think there is a mix of that, how much I don't know. The record, we didn't get that far. The record doesn't show that.

Judge Clay: Well, I'm not asking what's in the record. But you know what the supervisor relationship is. At least I hope you do since you're trying to satisfy your client, the attorney general.

Mr. Gentry: I have an understanding of it. I'm not sure if I have facts sufficient to

accurately state this for your Honor.

Judge Clay: Alright. Okay. Thank you.

Mr. Gentry: Thank you.

Mr. Close: Please the court, counsel. My name is Mike Close. I represent the Defendants Sheriff and Wiles Boyle. Judge Clay, I'm going to take the opportunity just to answer that question you asked about supervision. There is no one from the attorney general's office sitting in the office. However, they review the files on a continuing basis; they pull files back; they reassign files; and more importantly, on a regular basis, they're in the office doing audits to ensure that we're complying with everything we're supposed to comply with. And that would particularly be in the area, for instance, of security information and so forth. For instance, you've got to have a segregated place from all the rest that goes on in your office for these collectors because the information that are on tax returns that might be in the file with the social security number, and so forth, are absolutely confidential. And that's a good way to lose the contract with the attorney general is to not keep that stuff separate according to their very strict guidelines. Secondly, when you look at this case, there's a difference

between Meadows and Gillie.

Judge Clay: Before you to go to that point, let me follow up on your first answer there. If the lawyer who's working for the state and doing these debt collections under contract with the state—that lawyer is not working exclusively for the attorney general, I take it. In other words, that lawyer has other clients and other matters. He's not he's not assigned to attorney general matters or debt collection matters exclusively.

Mr. Close: Since we're outside the purview of what's in the record, I would tell you that that varies. There are attorneys in the state that my belief is that's all they do, is collect for the attorney general. I know that within the Wiles law office, the two attorneys that are assigned primarily to collection, do virtually nothing but creditor's work. They don't do other law practicing. If that is, in fact, your question.

Judge Clay: Yes, yes.

Mr. Close: They don't do anything else.

Judge Clay: But that's because they want to. I mean they're not required...

Mr. Close: Because I told them they had to.

Judge Clay: You told them. Is that what you said?

Mr. Close: Yes sir, that's what I said. But they're assigned, in the office, responsibility,

certainly and that's the limit of those responsibilities. I'd like to just address some attention to one area that I think goes by. And although I'm not conceding anything that Judge Graham did was incorrect, one of the issues that's important as it relates to my clients is that there was no confusion of any kind because the client had been represented by a lawyer. And actually had entered into an agreed judgment in 2008 to pay off the debt she owed the state of Ohio for her tuition. She made those payments for years. Then all of a sudden calls one of the collectors at the Wiles firm that worked for Mark Sheriff and said, "How much do I still owe?" And if you'll look at the fact that stuff that is in the file, the collector made a response that said "You're outstanding balance is so-and-so. Let me know if you've got any other questions." Not only was it not a dunning letter, but there was no confusion because Ms. Meadows knew exactly what she was dealing with. I think that highlights...

Judge Gilman: Did Ms. Meadows testify she was confused?

Mr. Close: I'm sorry?

Judge Gilman: Didn't Ms. Meadows testify that she was confused.

Mr. Close — I don't know that she ever testified to that, your Honor. I know that on the issue of whether or not she made the phone call, she said in an affidavit she didn't remember whether she did or not. And, of course, our collector had records that the call had been made and that this letter had been sent out in answer to it. I don't know that whether or not you can just say "I am confused" is accurate because it'd be so self-serving that I don't know it's worthy of even consideration as far as evidence is concerned when you have been represented by an attorney and have made those payments for a period, at that time, of roughly four years.

Judge Sutton: — Mr. Close, this is a question for you, the attorney general, and for the plaintiffs on rebuttal. The way I'm looking at the case has nothing to do with officer/employee. Just forget that. Assume for the sake of—just listen—assume for the sake of argument, the statute applies in that respect. Now the question is, has someone created a false impression as to their source authorization or approval? Or simulated official communications? And you don't get anywhere without falsity. And what I don't understand about this case is sending a document with the A.G.'s letterhead gives the so-called bad

impression, that is, it gives the impression it came from the attorney general to collect this debt. Answer, it did.

Mr. Close: It did.

Judge Sutton: That's what an agent does. And so I don't—I'm just—I'm really struggling with what the issue of fact is about a falsity. I don't understand how anyone can say these contracts, special counsel contracts didn't make each one of these lawyers, non-lawyers—who cares—agents of the attorney general in collecting these state debts. That was accurate from the beginning.

Mr. Close: Your Honor, I would only say that although I'm inclined never to concede anything, if I conceded for a minute that officers didn't matter—whether he was an officer or an employee—any of that, I would agree with you. What on this is inaccurate? We're not saying that we are the attorney general. We say specifically we're special...

Judge Sutton: ...any more than Eric Jones, if he was an employee of the attorney general, is purporting to be the attorney general. Of course, he's not the attorney general. When you see one name saying Mike DeWine and another name being not Mike DeWine, of course, it is an agent of the

attorney general. It matters not whether it's an independent contractor, an employee, or some other relationship between principals and agents.

Mr. Close: Your argument is well made, your Honor. Thank you.

Mr. Conomy: Good morning and thank you. I'm Assistant Attorney General Chis Conomy, and I'm authorized to represent the intervening defendant-appellee Mike DeWine because I've been appointed to do so pursuant to his statutory authority. It has nothing to do with my manner of supervision or the way I am paid. It is the appointment that gives me authority to stand here and represent him and, at times, the state. To get right to your point, Judge Sutton, there is nothing false here. The decision of the district court must be affirmed because regardless of the officer, employee, debt-collector definition, there's nothing deceptive in the accurate portrayal of the relationship in this case. It must also...

Judge Sutton: So I think the response they're gonna give—and I want to make sure you have a chance to respond to it—is, well this line of argument would not just apply to states when they have special counsel. What would happen

with, say, IBM, when they have debt collection, is that outside debt collector—we'll call it an independent contractor to make it analogous—but clearly an agent of IBM authorized to collect these debts now, just like this case. Can they use IBM letterhead as long as they indicated under their signature, outside counsel, special counsel to IBM for purposes of collection of the debt?

Mr. Conomy: My understanding is that that would not be acceptable under the FDCPA, but here is the difference.

Judge Sutton: Okay.

Mr. Conomy: The state of Ohio is not a corporation. It is a state. And this brings me to my second point. That in order to prevail...

Judge Sutton: Why is that—from the perspective of what's potentially misleading, I'm struggling with why one is misleading and one is accurate.

Mr. Conomy: In this case, the independent-contractor relationship is as irrelevant as the officer-employee distinction because it is the statutory appointment that creates the authority to act. It's, for instance...

Judge Sutton: Are you making a point, then, in the IBM example there's no statute?

Mr. Conomy: There's no statute for IBM to appoint an individual, but, frankly, this is getting a little outside of what I think the important point of this case, from our perspective, is that the state of Ohio is different than a corporation in that in order for the defendants to prevail, they need to manufacture an unwarranted intrusion of federal law into state activity. The state is authorized, pursuant to statute, to appoint people to represent it in whatever manner—the FDCPA cannot regulate how the state appoints individuals to act with the authority of the state.

Judge Gilman: No, but the federal government can define through this Act who is debt collector or not.

Mr. Conomy: Absolutely. And that is irrelevant to the ultimate outcome, which the district court found in the alternative, assuming that they're not officers or employees; they are debt collectors. There's no deception. They are acting on behalf of the state through the Office of the attorney general through their appointment.

Judge Clay: Let me ask you this. What is sought to be accomplished by putting these letters on attorney general letterhead? There must be some advantage to the attorney general in doing that; otherwise he wouldn't ask that that be

done. So what's sought to be accomplished with that?

Mr. Conomy: Certainly there is an advantage, both to the state and to the debtor. Here's the problem. The debtors are claiming that there's a sense of urgency created here. And it is absolutely appropriate because there are remedies available to the state in collection of debts that are not available to IBM or any other private company. Tax refunds can be taken, lottery winnings, casino earnings/winnings can be taken. These are things that private corporations can't do. And it also helps to clarify that, yes, this is from the state. Certainly, we do get a lot of calls; is this real? So the answer is yes.

Judge Clay: So this is to get the debtor to prefer the debt with the state over and above his other debts with private corporations or other debt collectors. The debt to the state, as a result of this, would be made in the minds of many consumers to come first.

Mr. Conomy: If their tax refund is at issue, I think that is a good reason to put it first, and that is not prohibited under the FDCPA. A sense of urgency is not prohibited, but only deception.

Judge Clay: But if the consumer thinks that there's a legal requirement to put that

debt first because it's coming from the attorney general when there is not a legal requirement to put that debt first—if that's the outcome of all this, then it is misleading.

Mr. Conomy: The FDCPA prohibits deception, not confusion. Confusion is not prohibited.

Judge Clay: Well, if you create confusion deliberately to have an advantage over other similarly situated collectors, that may be a problem under the Act.

Mr. Conomy: I have also run out of time, but, again, I'd be happy to respond.

Judge Clay: Well, you can respond. Then Judge Sutton has a question.

Mr. Conomy: Again, it is to the consumer, the debtors, advantage also to respond. They have to prioritize their debt payment if they're getting multiple notices. If their tax refund is at issue in one instance and not in another, I believe they deserve fair warning of that. And that is also part of the reason...

Judge Clay: But that's not what the letter—the letter doesn't tell them that.

Mr. Conomy: It doesn't tell them that they're subject to being arrested...

Judge Clay: So what you—alright. Okay. I think

Judge Sutton has a question.

Mr. Conomy: Yes, your Honor.

Judge Sutton: I'm still not sure I understand your theory of the case. So just let me know if this isn't making sense. I mean, your point about Congress and the FDCPA not interfering with states and how they organize their operations—I guess if I were on their side, I would say, "Well that's taken care of by the exemption." That's—hang in there—so that takes you back to the officer-employee question, but if you don't fit under that, it seems funny to still talk about federal-state. It seems like that's where they address that, and if it doesn't work here, you're back to being like IBM. So now explain to me your answer before why there's a falsity when IBM does it and not the state. So just hear me out. The point I'm making is the letterhead is not a lie. It's not misleading because what's going on is the person is engaged to act as the state, specifically the attorney general, to collect this. I'm sure it's black-letter law and that's why you're conceding it, but you just need to explain it to me. When IBM does it, and everything is exactly the same as here except there's no statute behind all of this, that IBM hires this person at the bottom of their, you know, they

need to make it just like it says, IBM letterhead, CEO, such-and-such—and then you have the signature line, Eric Jones, counsel to IBM for purposes of collecting debts. Why is that misleading? I mean, it is from IBM. They've been hired to be an agent to collect this debt.

Mr. Conomy: I'll concede, for argument, that it may be a violation of the FDCPA.

Judge Sutton: Why? Why? I don't understand why, though. What's misleading about it?

Mr. Conomy: Well, the debtors here are pursuing a theory that the FDCPA permits only one true name. And no matter how many names may be true, only one of them is permitted under the FDCPA to be true.

Judge Sutton: Is there authority for that? I mean, is that in the statute or the regs?

Mr. Conomy: They make an argument based on the use of the singular rather than plural, again, ignoring the Dictionary Act in making that argument. But assuming all that is true, here is my point. Because the state has created a system where more than one name is, in fact, true. Where it is special counsel and the attorney general working pursuant to a statutory arrangement, they're—for them to prevail, they need to create a regulation under the FDCPA that

prohibits the state from using two true names. They're—for them to prevail, it would be a backdoor regulation that would not allow this relationship to be truly disclosed in the letter.

Judge Sutton: Is there case law that says you can't do my hypothetical in the private setting where you have IBM letterhead and it's someone who's not quote "an employee" of IBM; they're a debt collector, but they're an agent for IBM? It's true. This is an IBM debt, and they're collecting it for IBM, and when it's collected, and money's going back to IBM. There's no lie.

Mr. Conomy: There are cases that have used, for instance, a sheriff's letterhead that have been found to violate the FDCPA because the collectors acting for the county in that case did not have the statutory appointment that is at issue here. I—and I'm sorry I don't have that case name at the tip of my tongue right now. I'm pretty sure the debtor's counsel could tell you that case. There is case law that addresses that.

Judge Sutton: I see.

Mr. Conomy: And my point with federalism and I know it's a little convoluted but their application of the FDCPA in this case would prohibit two names from being

true, whereas the statute that allows the appointment for debt collection here...

Judge Sutton: Does the attorney general require this letterhead or not?

Mr. Conomy: The special counsels are directed to use it, yes. Because the state would like people to know when communications are coming from the state.

Judge Gilman: The state law says it's only in connection with tax liability that the letterhead should be used, right?

Mr. Conomy: We don't read that as being a prohibition on other uses. And even if that were the case, if I were to concede that to the debtors in this case, that still does not mean that it is false in violation of the FDCPA.

Judge Sutton: I think the better way to put it is that it would be ambiguous and the attorney general has administrative deference in terms of construing what he can and can't do. And he's decided to say I'm requiring it.

Mr. Conomy: And I would agree wholeheartedly with that. I've gone way over my time. Thank you very much.

Mr. Nobile: Judge Gilman, you had asked earlier about the definition. I'm not going to spend a lot of time on the issue of officer or employee, at least in this

context, whether there was an opinion that actually said that, and we couldn't find anything either, obviously. But we did find the court—the Supreme Court's advisory opinion concerning special counsel, and we've cited that, and I wanted to commend that further to you for further reading and/or review if you haven't already. In which the advisory committee did indicate that special counsel are really just independent contractors. They hold no office and they take no oaths. They act purely at the...

Judge Sutton: Do you have a two-name theory? Is that, is he being fair in characterizing your theory as a two-name theory?

Mr. Nobile: Well I wouldn't call it a two-name theory. I'd call it a true-name theory.

Judge Sutton: Okay, because the two-name or true-name theory runs into the hypothetical I already asked you about where you have the employee with one name and the letterhead having another. So that confirms to me there is no such two-name problem. Right, because you agree if an employee of the office had sent this, we're fine, right?

Mr. Nobile: Right.

Judge Sutton: Okay, so what's—how do you answer the IBM thing? It sounds like there's good authority for you on that.

Explain to me how that authority works and why it is an inaccuracy when the person is an agent and they have authority to collect this debt for their principle. In that respect, is doing everything an employee does, and I just, I just don't get it.

Mr. Nobile: I will answer that, your Honor, but first I want to reinforce and maybe convince you that this letter, these letters, didn't come from Mike DeWine. They didn't come from the attorney general's office. You're struggling with the notion that they did because these are agents or these are somebody who was contracted with to send them on their behalf. It doesn't mean they came directly from the OAG. In fact, they came from the office, the law office, of Eric Jones. That is the business entity that prepared that letter, spent the resources to stuff the envelope, and send that letter out. It did not come from...

Judge Sutton: Yeah but I'm just looking for material falsities is all I'm looking for, and I—what seems to me problematic for your position is I don't see a falsity. To me, it—the A.G. is collecting debts on behalf of the state, and the A.G. can do that through employees, the A.G. can do it only by himself, or the A.G. can do some combination,

including outside counsel where outside counsel are agents of the A.G. for purposes of collecting that debt. So, I just don't get the falsity. The principle in every setting is either the A.G. or the state, however you want to look at it. And so why is that false? I mean, to the extent the anxiety created in the recipient is "Ah, this is coming from the state. This is coming from the attorney general." That's right. It is. That's not a lie. That's where it's coming from. That's where the money's going back.

Mr. Nobile: That's actually—the money doesn't go back to the OAG.

Judge Sutton: Not all of it. Not all. Well, some of it goes to state and some of it goes to the individual.

Mr. Nobile: But, your Honor, that's true with any debt collector in a contingency relationship.

Judge Sutton: Then show me this case that shows why my IBM hypothetical—because I think that's your best response—just tell me the cases that say, "No, no, no. You can't have IBM letterhead, an outside debt collector, and signing Eric Jones, counsel or whatever, agent for IBM and collecting debts.

Mr. Nobile: (inaudible), *Boyco*, I'm trying to think of...

Judge Do they respond to the point? I'll read

Sutton: those cases. Do they respond to the point that there's not a falsity because the person really is an agent for IBM or the A.G. in collecting this debt.

Mr. Nobile: They will tell you that one party, an individual, or a business has a true name, and if you are collecting outside of that true name, then you are violating that part of the...

Judge Sutton: The true name is the A.G. or the IBM. No one's denying the true name.

Mr. Nobile: No. The true name of the debt collector. It's not the creditor...

Judge Sutton: It's back to two names and that proves Mike DeWine cannot even do this with employees because you're going to have two names on those letters. You're going to have the letterhead with DeWine, and you're going to have the employee's name, Pat Smith, whatever it is.

Mr. Nobile: Doesn't that really explain why, under the statute, they accept officer and employees? It doesn't say agents. It just says officers or employees, not agents. So if an employee actually signs it, there is no FDCPA problem. There is no reason to question whether or not it came from a name other than the true name because the FDCPA doesn't apply. Same thing if Mike DeWine penned the letter. It doesn't apply. An agent, however, it

applies. And you have to be clear. You wrote, your Honor, in less than a month ago that simply because something is—well—a truth doesn't necessarily mean it doesn't mislead. And you wrote that in your *Buchanan* decision. I think it came out last month. In this case there might be some truth to the relationship. Nobody's denying that. They're hired. There's a contract. But it doesn't mean that they're the ones that created this letter that, they put it on the letterhead of the state. The individual that receives that thinks that...

Judge Sutton: What about the fact they had no choice?

Mr. Nobile: Well, errors in legal judgment, the Supreme Court's ruled, and I think this court's preceded the Supreme Court ruling, that way, are not defenses under the statute

Judge Sutton: So the attorney general can't say, "I want this all on letterhead?" Because that's the ultimate upshot of your position.

Mr. Nobile: Your Honor, even the state law says you can't do that except for tax debts.

Judge Sutton: No, no. I mean. It just says for tax, it doesn't say the opposite.

Mr. Nobile: It says {crosstalk}...

Judge Sutton:	You have to agree there's ambiguity there.
Mr. Nobile:	Well, I don't see it as ambiguous because it—there's a directive that special counsel shall use the letterhead but only in connection with collection of tax debts. To me, that's very clear. That's ...
Judge Sutton:	Your theory of the case, then, would be that's it's okay in tax settings to do just this thing.
Mr. Nobile:	Yes because taxes are not debts under the FDCPA. I think that's probably—without digging too deeply—just an educated guess there would be that's why that exists. They want the advantage of being able to use the debt-collectors letterhead.
Judge Clay:	You've ran way over you're...
Mr. Nobile	I'm sorry, Your Honor.
Judge Clay:	I guess we should wrap this up.
Mr. Nobile	Thank you.
Judge Clay:	The case is submitted. You may call the next...